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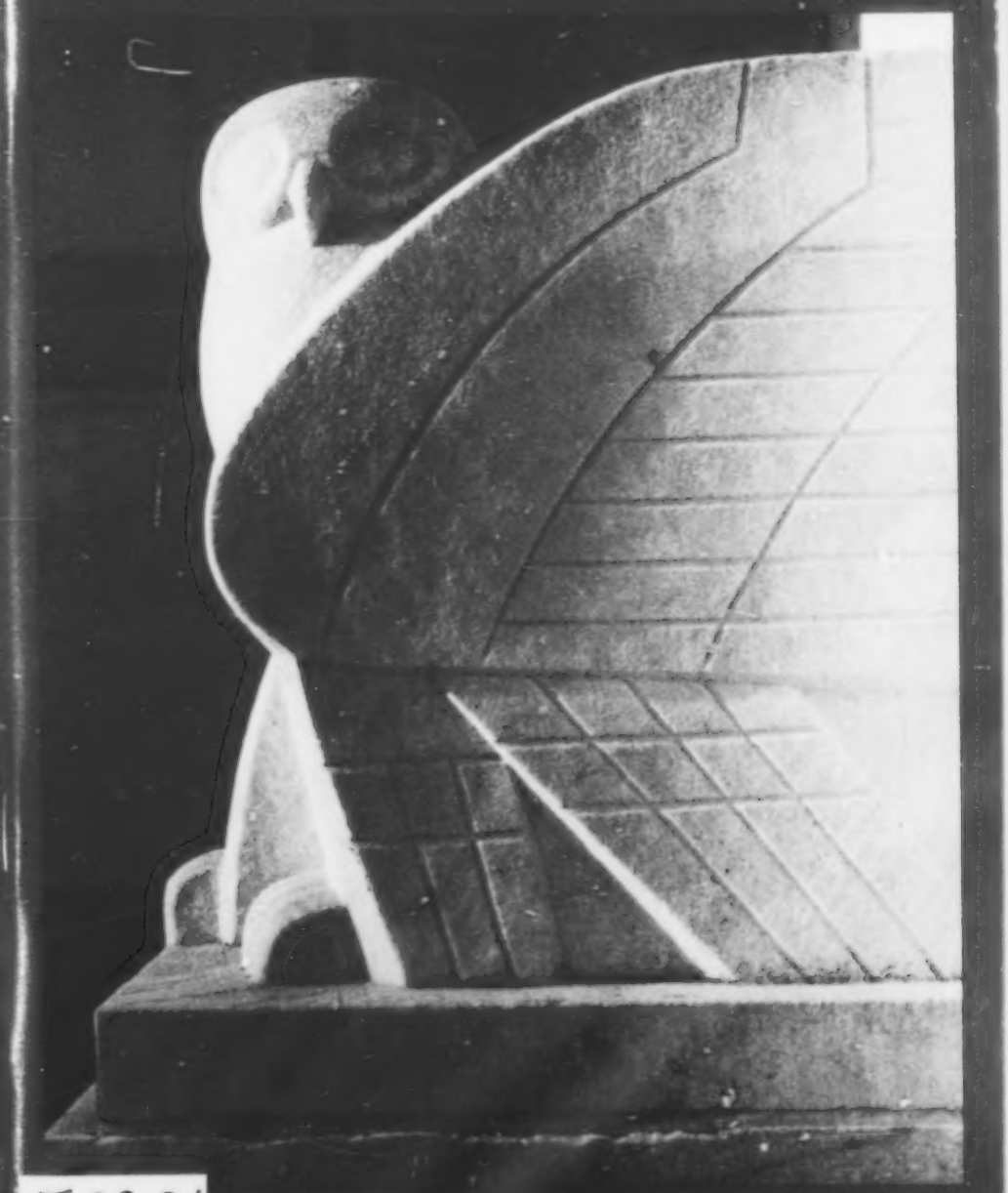
FEDERAL HISTORIC PRESERVATION LAWS



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FEDERAL HISTORIC PRESERVATION LAWS

U.S. Department of the Interior
National Park Service
Cultural Resources Programs

Washington, D.C.

1989-90

Introduction

Although Congress created the world's first national park, Yellowstone, in 1872 by setting aside over 2 million acres as a public park under the control of the Secretary of the Interior, the concept of a system to conserve and protect a wide variety of our natural and cultural resources nationwide evolved slowly. A growing interest in preserving not only the great scenic wonders of the American West but the sites and structures associated with early Native American cultures led to passage in 1906 of the Antiquities Act which authorized the President "to declare by public proclamation [as national monuments] historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest." With the creation of the National Park Service in 1916, Congress established a national conservation agency with the primary responsibility of promoting and regulating its Federally-owned lands in a manner that would "leave them unimpaired for the enjoyment of future generations." With the enactment of the Historic Sites Act of 1935, the preservation mandate of the National Park Service was extended to include historic properties not owned or administered by the Federal government.

Subsequent Federal historic preservation law is grounded in these early concepts of conserving cultural resources for the benefit of future generations and focuses on the identification, designation, and protection of historic districts, sites, buildings, structures and objects across the country. Since 1966 when the seminal National Historic Preservation Act was passed, over a dozen major pieces of Federal preservation legislation have been enacted.

Because of the variety and number of Federal statutes that contain some historic preservation component irrespective of their primary focus, this publication cannot attempt to be a comprehensive guide to Federal historic preservation law. However, it does bring together the major Federal historic preservation laws that govern a national program to coordinate and support public and private efforts to identify, evaluate, and protect our historic and archeological resources. Many of these laws are administered by the National Park Service in cooperation with the State Historic Preservation Offices and local governments. Those administered by other Federal agencies are identified in the appropriate section. Questions concerning implementation and interpretation of the laws included in this publication should be addressed to the appropriate office of the National Park Service or relevant Federal agency.

Federal Historic Preservation Laws

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Laws Governing National Historic Preservation Programs

The Historic Sites Act of 1935 established that "it is a national policy to preserve for public use historic sites, buildings, and objects of national significance for the inspiration and benefit of the people of the United States," and gave the Secretary of the Interior broad powers to conduct a national historic preservation program. Until the 1960s this preservation program included study, documentation, and designation of nationally significant sites, regulation of the removal of archeological resources from Federally-owned land, acquisition of privately-owned historic properties, preservation of historic sites on Federal land, and assistance to a number of specific Federal agencies with programs that might adversely affect historic properties. Despite these efforts, there was a growing recognition and concern that great numbers of historic resources of less than national significance were being lost.

Consequently, the National Historic Preservation Act of 1966 was enacted and immediately became the basic Federal law governing preservation of historic and archeological resources of national, regional, state, and local significance. Amended most recently in 1980 to include the key provisions of Executive Order 11593 and to provide greater decision-making authority to State and local governments, it is the legal basis for the Federal Government's principal historic preservation activities, including the National Register of Historic Places, the Advisory Council on Historic Preservation, technical preservation assistance, and the Historic Preservation Fund. In 1980 amendments to the National Historic Preservation Act codified Federal agency responsibilities for stewardship of historic properties under their jurisdiction. In short, this basic Federal preservation law is the underlying structural basis of a national program to coordinate and support public and private efforts to identify, evaluate, and protect our historic and archeological resources.

Historic Sites Act of 1935[1]

AN ACT To provide for the preservation of historic American sites, buildings, objects and antiquities of national significance, and for other purposes.

Declaration of Policy

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That is hereby declared that it is a national policy to preserve for public use historic sites, buildings and objects of national significance for the inspiration and benefit of the people of the United States.

SEC. 2. The Secretary of the Interior (hereinafter referred to as the Secretary), through the National Park Service, for purpose of effectuating the policy expressed in section 1 hereof, shall have the following powers and perform the following duties and functions:

Historic American Buildings Survey Historic American Engineering Record

(a) Secure, collate, and preserve drawings, plans, photographs, and other data of historic and archaeologic sites, buildings, and objects.

National Historic Landmarks Program

(b) Make a survey of historic and archaeologic sites, buildings, and objects for the purpose of determining which possess exceptional value as commemorating or illustrating the history of the United States.

Collection of true and accurate information

(c) Make necessary investigations and researches in the United States relating to particular sites, buildings, or objects to obtain true and accurate historical and archaeological facts and information concerning the same.

Acquisition of property

(d) For the purpose of this Act, acquire in the name of the United States by gift, purchase, or otherwise any property, personal or real, or any interest or estate therein, title to any real property to be satisfactory to the Secretary: *Provided,* That no such property which is owned by any religious or educational institution, or which is owned or administered for the benefit of the public shall be so acquired without the consent of the owner: *Provided further,* That no such property shall be acquired or contract or agreement for the acquisition thereof made which will obligate the general fund of the Treasury for the payment of such property, unless or until Congress has appropriated money which is available for that purpose.

Cooperative Agreements

(e) Contract and make cooperative agreements with States, municipal subdivisions, corporations, associations, or individuals, with proper bond where deemed advisable, to protect, preserve, maintain, or operate any historic or archaeologic building, site, object, or property used in connection therewith for public use, regardless as to whether the title thereto is in the United States: *Provided,* That no contract or cooperative agreement shall be made or entered into which will obligate the general fund of the Treasury unless or until Congress has appropriated money for such purpose.

Use of historic properties

(f) Restore, reconstruct, rehabilitate, preserve, and maintain historic or prehistoric sites, buildings, objects, and property of national historical or archaeological significance and where deemed desirable establish and maintain museums in connection therewith.

[1] This title is not an official short title but is merely a popular name used for the convenience of the reader; the Act has no official short title. The Historic Sites Act of 1935 (16 U.S.C. 461 *et seq.*), as set forth herein, consists of Public Law 74–292 (August 21, 1935) and amendments thereto.

Commemorative plaques

(g) Erect and maintain tablets to mark or commemorate historic or prehistoric places and events of national historical or archaeological significance.

Operation and management of historic properties

(h) Operate and manage historic and archaeologic sites, buildings, and properties acquired under the provisions of this Act together with lands and subordinate buildings for the benefit of the public, such authority to include the power to charge reasonable visitation fees and grant concessions, leases, or permits for the use of land, building space, roads, or trails when necessary or desirable either to accommodate the public or to facilitate administration: *Provided*, That the Secretary may grant such concessions, leases, or permits and enter into contracts relating to the same with responsible persons, firms, or corporations without advertising and without securing competitive bids.

Organization of special corporations

(i) When the Secretary determines that it would be administratively burdensome to restore, reconstruct, operate, or maintain any particular historic or archaeologic site, building, or property donated to the United States through the National Park Service, he may cause the same to be done by organizing a corporation for that purpose under the laws of the District of Columbia or any State.

Educational programs

(j) Develop an educational program and service for the purpose of making available to the public facts and information pertaining to American historic and archaeologic sites, buildings, and properties of national significance. Reasonable charges may be made for the dissemination of any such facts or information.

Regulations and fines

(k) Perform any and all acts, and make such rules and regulations not inconsistent with this Act as may be necessary and proper to carry out the provisions thereof. Any person violating any of the rules and regulations authorized by this Act shall be punished by a fine of not more than $500 and be adjudged to pay all cost of the proceedings.

National Park System Advisory Board

SEC. 3. (a) A general advisory board to be known as the National Park System Advisory Board is hereby established, to be composed of not to exceed twelve persons, citizens of the United States, to include but not be limited to representatives competent in the fields of history, archaeology, architecture, and natural science, who shall be appointed by the Secretary for a term not to exceed four years. The Secretary shall take into consideration nominations for appointees from public and private, professional, civic, and educational societies, associations, and institutions. The members of such board shall receive no salary but may be paid expenses incidental to travel when engaged in discharging their duties as members. It shall be the duty of such board to advise the Secretary on matters relating to the National Park System, to other related areas, and to the administration of this Act, including but not limited to matters submitted to it for consideration by the Secretary, but it shall not be required to recommend as to the suitability or desirability of surplus real and related personal property for use as an historic monument.

(b) The National Park System Advisory Board shall continue to exist until January 1, 1990.* In all other respects, it shall be subject to the provisions of the Federal Advisory Committee Act.

* As of this compilation, the Board has been extended administratively by the Secretary of the Interior for an additional year.

Technical and professional advice

SEC. 4. (a) The Secretary, in administering this Act, is authorized to cooperate with and may seek and accept the assistance of any Federal, State, or municipal department or agency, or any educational or scientific institution, or any patriotic association, or any individual.

Technical advisory committees

(b) When deemed necessary, technical advisory committees may be established to act in an advisory capacity in connection with the restoration or reconstruction of any historic or prehistoric building or structure.

(c) Such professional and technical assistance may be employed without regard to the civil-service laws, and such service may be established as may be required to accomplish the purposes of this Act and for which money may be appropriated by Congress or made available by gifts for such purpose.

Jurisdiction of States and political subdivisions

SEC. 5. Nothing in this Act shall be held to deprive any State, or political subdivision thereof, of its civil and criminal jurisdiction in and over lands acquired by the United States under this Act.

Congressional appropriations

SEC. 6. There is authorized to be appropriated for carrying out the purposes of this Act such sums as the Congress may from time to time determine.

Controlling provisions

SEC. 7. The provisions of this Act shall control if any of them are in conflict with any other Act or Acts relating to the same subject matter.

National Historic Preservation Act of 1966, as amended[2]

AN ACT To establish a program for the preservation of additional historic properties throughout the nation, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Short title

SEC. 1. (a) This Act may be cited as the "National Historic Preservation Act."

Purpose of the Act

(b) The Congress finds and declares that—

(1) the spirit and direction of the Nation are founded upon and reflected in its historic heritage;

(2) the historical and cultural foundations of the Nation should be preserved as a living part of our community life and development in order to give a sense of orientation to the American people;

(3) historic properties significant to the Nation's heritage are being lost or substantially altered, often inadvertently, with increasing frequency;

(4) the preservation of this irreplaceable heritage is in the public interest so that its vital legacy of cultural, educational, aesthetic, inspirational, economic, and energy benefits will be maintained and enriched for future generations of Americans;

(5) in the face of ever-increasing extensions of urban centers, highways, and residential, commercial, and industrial developments, the present governmental and nongovernmental historic preservation programs and activities are inadequate to insure future generations a genuine opportunity to appreciate and enjoy the rich heritage of our Nation;

(6) the increased knowledge of our historic resources, the establishment of better means of identifying and administering them, and the encouragement of their preservation will improve the planning and execution of Federal and federally assisted projects and will assist economic growth and development; and

(7) although the major burdens of historic preservation have been borne and major efforts initiated by private agencies and individuals, and both should continue to play a vital role, it is nevertheless necessary and appropriate for the Federal Government to accelerate its historic preservation programs and activities, to give maximum encouragement to agencies and individuals undertaking preservation by private means, and to assist State and local governments and the National Trust for Historic Preservation in the United States to expand and accelerate their historic preservation programs and activities.

Declaration of policy

SEC. 2. It shall be the policy of the Federal Government, in cooperation with other nations and in partnership with the States, local governments, Indian tribes, and private organizations and individuals to—

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[2] The National Historic Preservation Act (16 U.S.C. 470 *et seq.*), as set forth herein, consists of Public Law 89-665 (October 15, 1966) and amendments thereto. This Act was substantially amended by the National Historic Preservation Act Amendments of 1980, Public Law 96-515 (December 12, 1980). See also annual Department of the Interior appropriations acts for related matters.

(1) use measures, including financial and technical assistance, to foster conditions under which our modern society and our prehistoric and historic resources can exist in productive harmony and fulfill the social, economic, and other requirements of present and future generations;

(2) provide leadership in the preservation of the prehistoric and historic resources of the United States and of the international community of nations;

(3) administer federally owned, administered, or controlled prehistoric and historic resources in a spirit of stewardship for the inspiration and benefit of present and future generations;

(4) contribute to the preservation of nonfederally owned prehistoric and historic resources and give maximum encouragement to organizations and individuals undertaking preservation by private means;

(5) encourage the public and private preservation and utilization of all usable elements of the Nation's historic built environment; and

(6) assist State and local governments and the National Trust for Historic Preservation in the United States to expand and accelerate their historic preservation programs and activities.

Title I

National Register of Historic Places, expansion and maintenance

SEC. 101. (a)(1)(A) The Secretary of the Interior is authorized to expand and maintain a National Register of Historic Places composed of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, engineering and culture.

National Historic Landmarks, designation

(B) Properties meeting the criteria for National Historic Landmarks established pursuant to paragraph (2) shall be designated as "National Historic Landmarks" and included on the National Register, subject to the requirements of paragraph (6). All historic properties included on the National Register on the date of enactment of the National Historic Preservation Act Amendments of 1980 shall be deemed to be included on the National Register as of their initial listing for purposes of this Act. All historic properties listed in the Federal Register of February 6, 1979, as "National Historic Landmarks" or thereafter prior to the effective date of this Act are declared by Congress to be National Historic Landmarks of national historic significance as of their initial listing as such in the Federal Register for purposes of this Act and the Act of August 21, 1935 (49 Stat. 666); except that in cases of National Historic Landmark districts for which no boundaries have been established, boundaries must first be published in the Federal Register and submitted to the Committee on Energy and Natural Resources of the United States Senate and to the Committee on Interior and Insular Affairs of the United States House of Representatives.

Criteria for National Register and National Historic Landmarks and regulations

(2) The Secretary in consultation with national historic and archeological associations, shall establish or revise criteria for properties to be included on the National Register and criteria for National Historic Landmarks, and shall also promulgate or revise regulations as may be necessary for—

(A) nominating properties for inclusion in, and removal from, the National Register and the recommendation of properties by certified local governments;

(B) designating properties as National Historic Landmarks and removing such designation;

(C) considering appeals from such recommendations, nomination, removals, and designations (or any failure or refusal by a nominating authority to nominate or designate);

(D) nominating historic properties for inclusion in the World Heritage List in accordance with the terms of the Convention concerning the Protection of the World Cultural and Natural Heritage;

(E) making determinations of eligibility of properties for inclusion on the National Register; and

(F) notifying the owner of a property, any appropriate local governments, and the general public, when the property is being considered for inclusion on the National Register, for designation as a National Historic Landmark or for nomination to the World Heritage List.

Nominations to the National Register

(3) Subject to the requirements of paragraph (6), any State which is carrying out a program approved under subsection (b), shall nominate to the Secretary properties which meet the criteria promulgated under subsection (a) for inclusion on the National Register. Subject to paragraph (6), any property nominated under this paragraph or under section 110(a)(2) shall be included on the National Register on the date forty-five days after receipt by the Secretary of the nomination and the necessary documentation, unless the Secretary disapproves such nomination within such forty-five day period or unless an appeal is filed under paragraph (5).

Nominations from individuals and local governments

(4) Subject to the requirements of paragraph (6) the Secretary may accept a nomination directly from any person or local government for inclusion of a property on the National Register only if such property is located in a State where there is no program approved under subsection (b). The Secretary may include on the National Register any property for which such a nomination is made if he determines that such property is eligible in accordance with the regulations promulgated under paragraph (2). Such determinations shall be made within ninety days from the date of nomination unless the nomination is appealed under paragraph (5).

Appeals of nominations

(5) Any person or local government may appeal to the Secretary a nomination of any historic property for inclusion on the National Register and may appeal to the Secretary the failure or refusal of a nominating authority to nominate a property in accordance with this subsection.

Owner participation in nomination process

(6) The Secretary shall promulgate regulations requiring that before any property or district may be included on the National Register or designated as a National Historic Landmark, the owner or owners of such property, or a majority of the owners of the properties within the district in the case of an historic district, shall be given the opportunity (including a reasonable period of time) to concur in, or object to, the nomination of the property or district for such inclusion or designation. If the owner or owners of any privately owned property, or a majority of the owners of such properties within the district in the case of an historic dis-

trict, object to such inclusion or designation, such property shall not be included on the National Register or designated as a National Historic Landmark until such objection is withdrawn. The Secretary shall review the nomination of the property or district where any such objection has been made and shall determine whether or not the property or district is eligible for such inclusion or designation, and if the Secretary determines that such property or district is eligible for such inclusion or designation, he shall inform the Advisory Council on Historic Preservation, the appropriate State Historic Preservation Officer, the appropriate chief elected local official and the owner or owners of such property, of his determination. The regulations under this paragraph shall include provisions to carry out the purposes of this paragraph in the case of multiple ownership of a single property.

Regulations for curation, documentation, and local government certification

(7) The Secretary shall promulgate, or revise, regulations—

(A) ensuring that significant prehistoric and historic artifacts, and associated records, subject to section 110 of this Act, the Act of June 27, 1960 (16 U.S.C. 469c), and the Archeological Resources Protection Act of 1979 (16 U.S.C. 470aa and following) are deposited in an institution with adequate long-term curatorial capabilities;

(B) establishing a uniform process and standards for documenting historic properties by public agencies and private parties for purposes of incorporation into, or complementing, the national historic architectural and engineering records within the Library of Congress; and

(C) certifying local governments, in accordance with subsection (c)(1) and for the allocation of funds pursuant to section 103(c) of this Act.

State Historic Preservation Programs

(b)(1) The Secretary, in consultation with the National Conference of State Historic Preservation Officers and the National Trust for Historic Preservation, shall promulgate or revise regulations for State Historic Preservation Programs. Such regulations shall provide that a State program submitted to the Secretary under this section shall be approved by the Secretary if he determines that the program—

Designation of the State Historic Preservation Officer (SHPO)

(A) provides for the designation and appointment by the Governor of a "State Historic Preservation Officer" to administer such program in accordance with paragraph (3) and for the employment or appointment by such officer of such professionally qualified staff as may be necessary for such purposes;

(B) provides for an adequate and qualified State historic preservation review board designated by the State Historic Preservation Officer unless otherwise provided for by State law; and

(C) provides for adequate public participation in the State Historic Preservation Program, including the process of recommending properties for nomination to the National Register.

Review of State programs

(2) Periodically, but not less than every four years after the approval of any State program under this subsection, the Secretary shall evaluate such program to make a determination as to whether or not it is in compliance with the requirements of this Act. If at any time, the Secretary determines that a State program does not comply with such requirements, he shall disapprove such program, and suspend in whole or in part assistance to such State under subsection (d)(1), unless there are adequate assurances that

the program will comply with such requirements within a reasonable period of time. The Secretary may also conduct periodic fiscal audits of State programs approved under this section.

SHPO responsibilities

(3) It shall be the responsibility of the State Historic Preservation Officer to administer the State Historic Preservation Program and to—

(A) in cooperation with Federal and State agencies, local governments, and private organizations and individuals, direct and conduct a comprehensive statewide survey of historic properties and maintain inventories of such properties;

(B) identify and nominate eligible properties to the National Register and otherwise administer applications for listing historic properties on the National Register;

(C) prepare and implement a comprehensive statewide historic preservation plan;

(D) administer the State program of Federal assistance for historic preservation within the State;

(E) advise and assist, as appropriate, Federal and State agencies and local governments in carrying out their historic preservation responsibilities;

(F) cooperate with the Secretary, the Advisory Council on Historic Preservation, and other Federal and State agencies, local governments, and organizations and individuals to ensure that historic properties are taken into consideration at all levels of planning and development;

(G) provide public information, education and training, and technical assistance relating to the Federal and State Historic Preservation Programs; and

(H) cooperate with local governments in the development of local historic preservation programs and assist local governments in becoming certified pursuant to subsection (c).

Arrangements with nonprofit organizations

(4) Any State may carry out all or any part of its responsibilities under this subsection by contract or cooperative agreement with any qualified nonprofit organization or educational institution.

Approval of existing programs

(5) Any State historic preservation program in effect under prior authority of law may be treated as an approved program for purposes of this subsection until the earlier of—

(A) the date on which the Secretary approves a program submitted by the State under this subsection, or

(B) three years after the date of the enactment of the National Historic Preservation Act Amendments of 1980.

Certification of local governments

(c)(1) Any State program approved under this section shall provide a mechanism for the certification by the State Historic Preservation Officer of local governments to carry out the purposes of this Act and provide for the transfer, in accordance with section 103(c), of a portion of the grants received by the State under this Act to such local governments. Any local government shall be certified to participate under the provisions of this section by the applicable State Historic Preservation Officer, and the Secretary, certifies that the local government—

(A) enforces appropriate State or local legislation for the designation and protection of historic properties;

(B) has established an adequate and qualified historic preservation review commission by State or local legislation;

(C) maintains a system for the survey and inventory of historic properties that furthers the purposes of subsection (b);

(D) provides for adequate public participation in the local historic preservation program, including the process of recommending properties for nomination to the National Register; and

(E) satisfactorily performs the responsibilities delegated to it under this Act.

Where there is no approved State program, a local government may be certified by the Secretary if the Secretary determines that such local government fulfills the requirements of subparagraphs (A) through (E), and in any such case the Secretary may make grants-in-aid to the local government for purposes of this section.

Participation of certified local governments in National Register nominations

(2)(A) Before a property within the jurisdiction of the certified local government may be considered by the State to be nominated to the Secretary for inclusion on the National Register, the State Historic Preservation Officer shall notify the owner, the applicable chief local elected official, and the local historic preservation commission. The commission, after reasonable opportunity for public comment, shall prepare a report as to whether or not such property, in its opinion, meets the criteria of the National Register. Within sixty days of notice from the State Historic Preservation Officer, the chief local elected official shall transmit the report of the commission and his recommendation to the State Historic Preservation Officer. Except as provided in subparagraph (B), after receipt of such report and recommendation, or if no such report and recommendation are received within sixty days, the State shall make the nomination pursuant to section 101(a). The State may expedite such process with the concurrence of the certified local government.

(B) If both the commission and the chief local elected official recommend that a property not be nominated to the National Register, the State Historic Preservation Officer shall take no further action, unless within thirty days of the receipt of such recommendation by the State Historic Preservation Officer an appeal is filed with the State. If such an appeal is filed, the State shall follow the procedures for making a nomination pursuant to Section 101(a). Any report and recommendations made under this section shall be included with any nomination submitted by the State to the Secretary.

(3) Any local government certified under this section or which is making efforts to become so certified shall be eligible for funds under the provisions of section 103(a) of this Act, and shall carry out any responsibilities delegated to it in accordance with such terms and conditions as the Secretary deems necessary or advisable.

Grants to States

(c)(1) The Secretary shall administer a program of matching grants-in-aid to the States for historic preservation projects, and State historic preservation programs, approved by the Secretary and having as their purpose the identification of historic properties and the preservation of properties included on the National Register.

Grants to the National Trust

(2) The Secretary shall administer a program of matching grants-in-aid to the National Trust for Historic Preservation in the United States, chartered by Act of Congress approved October 26, 1949 (63 Stat. 947), for the purposes of carrying out the responsibilities of the National Trust.

Direct grants for threatened National Historic Landmarks, demonstration projects, training, and displacement prevention

(3)(A) In addition to the programs under paragraphs (1) and (2), the Secretary shall administer a program of direct grants for the preservation of properties included on the National Register. Funds to support such program annually shall not exceed 10 per centum of the amount appropriated annually for the fund established under section 108. These grants may be made by the Secretary, in consultation with the appropriate State Historic Preservation Officer—

(i) for the preservation of National Historic Landmarks which are threatened with demolition or impairment and for the preservation of historic properties of World Heritage significance;

(ii) for demonstration projects which will provide information concerning professional methods and techniques having application to historic properties;

(iii) for the training and development of skilled labor in trades and crafts, and in analysis and curation, relating to historic preservation; and,

(iv) to assist persons or small businesses within any historic district included in the National Register to remain within the district.

Grants and loans to minority groups

(B) The Secretary may also, in consultation with the appropriate State Historic Preservation Officer, make grants or loans or both under this section to Indian tribes and to nonprofit organizations representing ethnic or minority groups for the preservation of their cultural heritage.

(C) Grants may be made under subparagraph (A)(i) and (iv) only to the extent that the project cannot be carried out in as effective a manner through the use of an insured loan under section 104.

Prohibition on compensating intervenors

(e) No part of any grant made under this section may be used to compensate any person intervening in any proceeding under this Act.

Guidelines for Federal agency responsibilities

(f) In consultation with the Advisory Council on Historic Preservation, the Secretary shall promulgate guidelines for Federal agency responsibilities under section 110 of this title.

Preservation standards for federally owned properties

(g) Within one year after the date of enactment of the National Historic Preservation Act Amendments of 1980, the Secretary shall establish, in consultation with the Secretaries of Agriculture and Defense, the Smithsonian Institution, and the Administrator of the General Services Administration, professional standards for the preservation of historic properties in Federal ownership or control.

Technical advice

(h) The Secretary shall develop and make available to Federal agencies, State and local governments, private organizations and individuals, and other nations and international organizations pursuant to the World Heritage Convention, training in, and information concerning, professional methods and techniques for the preservation of historic properties and for the administration of the historic preservation program at the Federal, State, and local level. The Secretary shall also develop mechanisms to provide informa-

tion concerning historic preservation to the general plic including students.

Grants requirements

Sec. 102. (a) No grant may be made under this Act—

(1) unless application therefor is submitted to the cretary in accordance with regulations and procedures prescrib by him;

(2) unless the application is in accordance with th comprehensive statewide historic preservation plan which has bn approved by the Secretary after considering its relationship to e comprehensive statewide outdoor recreation plan prepared pursuant to the Land and Water Conservation Fund Act of 1965 (78 Stat. 897);

(3) in excess of 50 per centum of the aggregate cost of carrying out projects and programs certified to the Secretary under section 101(d) and (2) in any one fiscal year in the case of the State and local historic preservation programs of the Secretary shall provide 70 per centum of the aggregate cost incurred in any one fiscal year;

(4) unless the grantee has agreed to make such reports, in such form and containing such information as the Secretary may from time to time require;

(5) unless the grantee has agreed to assume, after completion of the project, the total cost of the continued maintenance, repair, and administration of the property in a manner satisfactory to the Secretary; and

(6) until the grantee has complied with such further terms and conditions as the Secretary may deem necessary or advisable.

Except as permitted by other law, the State share of the costs referred to in paragraph (3) shall be contributed by non-Federal sources. Notwithstanding any other provision of law, no grant made pursuant to this Act shall be treated as taxable income for purposes of the Internal Revenue Code of 1954.

Waiver for the National Trust

(b) The Secretary may in his discretion waive the requirements of subsection (a), paragraphs (2) and (5) of this section for any grant under this Act to the National Trust for Historic Preservation in the United States, in which case a grant to the National Trust may include funds for the maintenance, repair, and administration of the property in a manner satisfactory to the Secretary.

Limitation on matching

(c) No State shall be permitted to utilize the value of real property obtained before the date of approval of this Act in meeting the remaining cost of a project for which a grant is made under this Act.

Apportionment of survey and planning grants

Sec. 103. (a) The amounts appropriated and made available for grants to the States for comprehensive statewide historic surveys and plans under this Act shall be apportioned among the States by the Secretary on the basis of needs as determined by him.

Apportionment of project and program grants

(b) The amounts appropriated and made available for grants to the States for projects and programs under this Act for any fiscal year shall be apportioned among the States by the Secretary in accordance with needs as disclosed in approved statewide historic preservation plans. The Secretary shall notify each State of its apportionment under this subsection within thirty days following the date of enactment of legislation appropriating funds under this Act. Any amount of any apportionment that has not been paid or obligated by the Secretary during the fiscal year in which such

notification is given and for two fiscal years thereafter, shall be reapportioned by the Secretary in accordance with this subsection.

Apportionment to certified local governments

(c) A minimum of 10 per centum of the annual apportionment distributed by the Secretary to each State for the purposes of carrying out this Act shall be transferred by the State, pursuant to the requirements of this Act, to local governments which are certified under section 101(c) for historic preservation projects or programs of such local governments. In any year in which the total annual apportionment to the States exceeds $65,000,000, one half of the excess shall also be transferred by the States to local governments certified pursuant to section 101(c).

Guidelines for apportionment to local governments

(d) The Secretary shall establish guidelines for the use and distribution of funds under subsection (c) to insure that no local government receives a disproportionate share of the funds available, and may include a maximum or minimum limitation on the amount of funds distributed to any single local government. The guidelines shall not limit the ability of any State to distribute more than 10 per centum of its annual apportionment under subsection (c), nor shall the Secretary require any State to exceed the 10 per centum minimum distribution to local governments.

Insured loans for National Register properties

SEC. 104. (a) The Secretary shall establish and maintain a program by which he may, upon application of a private lender, insure loans (including loans made in accordance with a mortgage) made by such lender to finance any project for the preservation of a property included on the National Register.

Requirements

(b) A loan may be insured under this section only if—

(1) the loan is made by a private lender approved by the Secretary as financially sound and able to service the loan properly;

(2) the amount of the loan, and interest rate charged with respect to the loan, do not exceed such amount, and such a rate, as is established by the Secretary, by rule;

(3) the Secretary has consulted the appropriate State Historic Preservation Officer concerning the preservation of the historic property;

(4) the Secretary has determined that the loan is adequately secured and there is reasonable assurance of repayment;

(5) the repayment period of the loan does not exceed the lesser of forty years or the expected life of the asset financed;

(6) the amount insured with respect to such loan does not exceed 90 per centum of the loss sustained by the lender with respect to the loan; and

(7) the loan, the borrower, and the historic property to be preserved meet other terms and conditions as may be prescribed by the Secretary, by rule, especially terms and conditions relating to the nature and quality of the preservation work.

Interest rates

The Secretary shall consult with the Secretary of the Treasury regarding the interest rate of loans insured under this section.

Limitation on loan authority

(c) The aggregate unpaid principal balance of loans insured under this section and outstanding at any one time may not exceed the amount which has been covered into the Historic Preservation Fund pursuant to section 108 and subsection (g) and (i) of this

section, as in effect on the date of the enactment of the Act but which has not been appropriated for any purpose.

Assignability and effect

(d) Any contract of insurance executed by the Secretary under this section may be assignable, shall be an obligation supported by the full faith and credit of the United States, and shall be incontestable except for fraud or misrepresentation of which the holder had actual knowledge at the time it became a holder.

Method of payment for losses

(e) The Secretary shall specify, by rule and in each contract entered into under this section, the conditions and method of payment to a private lender as a result of losses incurred by the lender on any loan insured under this section.

Protection of Government's financial interests; foreclosure

(f) In entering into any contract to insure a loan under this section, the Secretary shall take steps to assure adequate protection of the financial interests of the Federal Government. The Secretary may—

(1) in connection with any foreclosure proceeding, obtain, on behalf of the Federal Government, the property securing a loan insured under this title; and

(2) operate or lease such property for such period as may be necessary to protect the interest of the Federal Government and to carry out subsection (g).

Conveyance of foreclosed property

(g)(1) In any case in which a historic property is obtained pursuant to subsection (f), the Secretary shall attempt to convey such property to any governmental or nongovernmental entity under such conditions as will ensure the property's continued preservation and use; except that if, after a reasonable time, the Secretary, in consultation with the Advisory Council on Historic Preservation, determines that there is no feasible and prudent means to convey such property and to ensure its continued preservation and use, then the Secretary may convey the property at the fair market value of its interest in such property to any entity without restriction.

(2) Any funds obtained by the Secretary in connection with the conveyance of any property pursuant to paragraph (1) shall be covered into the historic preservation fund, in addition to the amounts covered into such fund pursuant to section 108 and subsection (i) of this section, and shall remain available in such fund until appropriated by the Congress to carry out the purposes of this Act.

Fees

(h) The Secretary may assess appropriate and reasonable fees in connection with insuring loans under this section. Any such fees shall be covered into the Historic Preservation Fund, in addition to the amounts covered into such fund pursuant to section 108 and subsection (g) of this section, and shall remain available in such fund until appropriated by the Congress to carry out the purposes of this Act.

Loans to be considered non-Federal funds

(i) Notwithstanding any other provision of law, any loan insured under this section shall be treated as non-Federal funds for the purposes of satisfying any requirement of any other provision of law under which Federal funds to be used for any project or activity are conditioned upon the use of non-Federal funds by the recipient for payment of any portion of the costs of such project or activity.

Appropriation authorization

(j) Effective after the fiscal year 1981 there are authorized to be appropriated, such sums as may be necessary to cover payments incurred pursuant to subsection (e).

Prohibition against acquisition by Federal Financing Bank

(k) No debt obligation which is made or committed to be made, or which is insured or committed to be insured, by the Secretary under this section shall be eligible for purchase by, or commitment to purchase by, or sale or issuance to, the Federal Financing Bank.

Recordkeeping

SEC. 105. The beneficiary of assistance under this Act shall keep such records as the Secretary shall prescribe, including records which fully disclose the disposition by the beneficiary of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

Advisory Council on Historic Preservation, comment on Federal undertakings

SEC. 106. The head of any Federal agency having direct or indirect jurisdiction over a proposed Federal or federally assisted undertaking in any State and the head of any Federal department or independent agency having authority to license any undertaking shall prior to the approval of the expenditure of any Federal funds on the undertaking or prior to the issuance of any license, as the case may be, take into account the effect of the undertaking on any district, site, building, structure, or object that is included in or eligible for inclusion in the National Register. The head of any such Federal agency shall afford the Advisory Council on Historic Preservation established under Title II of this Act a reasonable opportunity to comment with regard to such undertaking.

Exemption of White House, Supreme Court, and Capitol

SEC. 107. Nothing in this Act shall be construed to be applicable to the White House and its grounds, the Supreme Court building and its grounds, or the United States Capitol and its related buildings and grounds.

Establishment of Historic Preservation Fund; authorization for appropriations

SEC. 108. To carry out the provisions of this Act, there is hereby established the Historic Preservation Fund (hereafter referred to as the "fund") in the Treasury of the United States.
There shall be covered into such fund $24,400,000 for fiscal year 1977, $100,000,000 for fiscal year 1978, $100,000,000 for fiscal year 1979, $150,000,000 for fiscal year 1980, $150,000,000 for fiscal year 1981, and $150,000,000 for each of fiscal years 1982 through 1987, from revenues due and payable to the United States under the Outer Continental Shelf Lands Act (67 Stat. 462, 469) as amended (43 U.S.C. 338) and/or under the Act of June 4, 1920 (41 Stat. 813) as amended (30 U.S.C. 191), notwithstanding any provision of law that such proceeds shall be credited to miscellaneous receipts of the Treasury. Such moneys shall be used only to carry out the purposes of this Act and shall be available for expenditure only when appropriated by the Congress. Any moneys not appropriated shall remain available in the fund until appropriated for said purposes: Provided, that appropriations made pursuant to this paragraph may be made without fiscal year limitation.

Donations to the Secretary

SEC. 109. (a) In furtherance of the purposes of sections of this Act, the Secretary may accept the donation of funds which may be expended by him for projects to acquire, restore, preserve, or recover data from any district, building, structure, site or object which is listed on the National Register of Historic Places established pursuant to section 101 of this Act, so long as the project is

owned by a State, any unit of local government, or any nonprofit entity.

Expenditure of donated funds

(b) In expending said funds, the Secretary shall give due consideration to the following factors: the national significance of the project; its historical value to the community; the imminence of its destruction or loss; and the expressed intentions of the donor. Funds expended under this subsection shall be made available without regard to the matching requirements established by section 102 of this Act, but the recipient of such funds shall be permitted to utilize them to match any grants from the Historic Preservation Fund established by section 108 of this Act.

Transfer of funds donated for the National Park Service

(c) The Secretary is hereby authorized to transfer unobligated funds previously donated to the Secretary for purposes of the National Park Service, with the consent of the donor, and any funds so transferred shall be used or expended in accordance with the provisions of this Act.

Federal agencies' responsibility to preserve and use historic buildings

SEC. 110. (a)(1) The heads of all Federal agencies shall assume responsibility for the preservation of historic properties which are owned or controlled by such agency. Prior to acquiring, constructing, or leasing buildings for purposes of carrying out agency responsibilities, each Federal agency shall use, to the maximum extent feasible, historic properties available to the agency. Each agency shall undertake, consistent with the preservation of such properties and the mission of the agency and the professional standards established pursuant to section 101(f), any preservation, as may be necessary to carry out this section.

Protection and nomination to the National Register of Federal properties

(2) With the advice of the Secretary and in cooperation with the State Historic Preservation Officer for the State involved, each Federal agency shall establish a program to locate, inventory, and nominate to the Secretary all properties under the agency's ownership or control by the agency, that appear to qualify for inclusion on the National Register in accordance with the regulations promulgated under section 101(a)(2)(A). Each Federal agency shall exercise caution to assure that any such property that might qualify for inclusion is not inadvertently transferred, sold, demolished, substantially altered, or allowed to deteriorate significantly.

Recordation of historic properties prior to demolition

(b) Each Federal agency shall initiate measures to assure that where, as a result of Federal action or assistance carried out by such agency, an historic property is to be substantially altered or demolished, timely steps are taken to make or have made appropriate records, and that such records then be deposited, in accordance with section 101(a), in the Library of Congress or with such other appropriate agency as may be designated by the Secretary, for future use and reference.

Designation of Federal agency preservation officers

(c) The head of each Federal agency shall, unless exempted under section 214, designate a qualified official to be known as the agency's "preservation officer" who shall be responsible for coordinating that agency's activities under this Act. Each Preservation Officer may, in order to be considered qualified, satisfactorily complete an appropriate training program established by the Secretary under section 101(g).

Conduct of agency programs consistent with Act

(d) Consistent with the agency's mission and mandates, all Federal agencies shall carry out agency programs and projects (including those under which any Federal assistance is provided or any Federal license, permit, or other approval is required) in accordance

with the purposes of this Act and, give consideration to programs and projects which will further the purposes of this Act.

Transfer of surplus Federal historic properties

(e) The Secretary shall review and approve the plans of transferees of surplus federally owned historic properties not later than ninety days after his receipt of such plans to ensure that the prehistorical, historical, architectural, or culturally significant values will be preserved or enhanced.

Federal undertakings affecting National Historic Landmarks

(f) Prior to the approval of any Federal undertaking which may directly and adversely affect any National Historic Landmark, the head of the responsible Federal agency shall, to the maximum extent possible, undertake such planning and actions as may be necessary to minimize harm to such landmark, and shall afford the Advisory Council on Historic Preservation a reasonable opportunity to comment on the undertaking.

Preservation activities as an eligible project cost

(g) Each Federal agency may include the costs of preservation activities of such agency under this Act as eligible project costs in all undertakings of such agency or assisted by such agency. The eligible project costs may also include amounts paid by a Federal agency to any State to be used in carrying out such preservation responsibilities of the Federal agency under this Act, and reasonable costs may be charged to Federal licensees and permittees as a condition to the issuance of such license or permit.

Preservation awards program

(h) The Secretary shall establish an annual preservation awards program under which he may make monetary awards in amounts not to exceed $1,000 and provide citations for special achievements to officers and employees of Federal, State, and certified local governments in recognition of their outstanding contributions to the preservation of historic resources. Such program may include the issuance of annual awards by the President of the United States to any citizen of the United States recommended for such award by the Secretary.

Applicability of National Environmental Policy Act

(i) Nothing in this Act shall be construed to require the preparation of an environmental impact statement where such a statement would not otherwise be required under the National Environmental Policy Act of 1969, and nothing in this Act shall be construed to provide any exemption from any requirement respecting the preparation of such a statement under such Act.

(j) The Secretary shall promulgate regulations under which the requirements of this section may be waived in whole or in part in the event of a major natural disaster or an imminent threat to the national security.

Leases or exchanges of Federal historic properties

SEC. 111. (a) Notwithstanding any other provision of law, any Federal agency may, after consultation with the Advisory Council on Historic Preservation, lease an historic property owned by the agency to any person or organization, or exchange any property owned by the agency with comparable historic property, if the agency head determines that the lease or exchange will adequately insure the preservation of the historic property.

Use of proceeds

(b) The proceeds of any lease under subsection (a) may, notwithstanding any other provision of law, be retained by the agency entering into such lease and used to defray the costs of administration, maintenance, repair, and related expenses incurred by the agency with respect to such property or other properties which are on the National Register which are owned by, or are under the

jurisdiction or control of, such agency. Any surplus proceeds from such leases shall be deposited into the Treasury of the United States at the end of the second fiscal year following the fiscal year in which such proceeds were received.

Management contracts

(c) The head of any Federal agency having responsibility for the management of any historic property may, after consultation with the Advisory Council on Historic Preservation, enter into contracts for the management of such property. Any such contract shall contain such terms and conditions as the head of such agency deems necessary or appropriate to protect the interests of the United States and insure adequate preservation of historic property.

Title II

Advisory Council on Historic Preservation; membership

SEC. 201. (a) There is established an Advisory Council on Historic Preservation (hereinafter referred to as the "Council") which shall be composed of the following members:

(1) a Chairman appointed by the President selected from the general public;

(2) the Secretary of the Interior;

(3) the Architect of the Capitol;

(4) the Secretary of Agriculture and the heads of four other agencies of the United States (other than the Department of the Interior), the activities of which affect historic preservation, appointed by the President;

(5) one Governor appointed by the President;

(6) one mayor appointed by the President;

(7) the President of the National Conference of State Historic Preservation Officers;

(8) the Chairman of the National Trust for Historic Preservation;

(9) four experts in the field of historic preservation appointed by the President from the disciplines of architecture, history, archeology, and other appropriate disciplines; and,

(10) three at-large members from the general public, appointed by the President.

Designees

(b) Each member of the Council specified in paragraphs (2) through (8) (other than (5) and (6)) may designate another officer of his department, agency, or organization to serve on the Council in his stead, except that, in the case of paragraphs (2) and (4), no such officer other than an Assistant Secretary or an officer having major department-wide or agency-wide responsibilities may be so designated.

Term of office

(c) Each member of the Council appointed under paragraph (1), and under paragraphs (9) and (10) of subsection (a) shall serve for a term of four years from the expiration of his predecessor's term; except that the members first appointed under that paragraph shall serve for terms of one to four years, as designated by the President at the time of appointment, in such manner as to insure that the terms of not more than two of them will expire in any one year. The members appointed under paragraphs (5) and (6) shall serve for the term of their elected office but not in excess of four years. An appointed member whose term has expired shall serve until that member's successor has been appointed.

Vacancies

(d) A vacancy in the Council shall not affect its powers, but shall be filled not later than sixty days after such vacancy commences, in the same manner as the original appointment (and for the balance of any unexpired terms). The members of the Advisory Council on Historic Preservation appointed by the President under this Act as in effect on the day before the enactment of the National Historic Preservation Act Amendments of 1980 shall remain in office until all members of the Council, as specified in this section, have been appointed. The members first appointed under this section shall be appointed not later than one hundred and eighty days after the enactment of the National Historic Preservation Act Amendments of 1980.

Vice Chairman

(e) The President shall designate a Vice Chairman, from the members appointed under paragraphs (5), (6), (9), or (10). The Vice Chairman may act in place of the Chairman during the absence or disability of the Chairman or when the office is vacant.

Quorum

(f) Nine members of the Council shall constitute a quorum.

Duties of Council

SEC. 202. (a) The Council shall—

(1) advise the President and the Congress on matters relating to historic preservation, recommend measures to coordinate activities of Federal, States, and local agencies and private institutions and individuals relating to historic preservation; and advise on the dissemination of information pertaining to such activities;

(2) encourage, in cooperation with the National Trust for Historic Preservation and appropriate private agencies, public interest and participation in historic preservation;

(3) recommend the conduct of studies in such areas as the adequacy of legislative and administrative statutes and regulations pertaining to historic preservation activities of State and local governments and the effects of tax policies at all levels of government on historic preservation;

(4) advise as to guidelines for the assistance of State and local governments in drafting legislation relating to historic preservation;

(5) encourage, in cooperation with appropriate public and private agencies and institutions, training and education in the field of historic preservation;

(6) review the policies and programs of Federal agencies and recommend to such agencies methods to improve the effectiveness, coordination, and consistency of those policies and programs with the policies and programs carried out under this Act; and,

(7) inform and educate Federal agencies, State and local governments, Indian tribes, other nations and international organizations and private groups and individuals as to the Council's authorized activities.

Annual and special reports

(b) The Council shall submit annually a comprehensive report of its activities and the results of its studies to the President and the Congress and shall from time to time submit such additional and special reports as it deems advisable. Each report shall propose such legislative enactments and other actions as, in the judgment of the Council, are necessary and appropriate to carry out its recommendations and shall provide the Council's assessment of current and emerging problems in the field of historic preservation and an evaluation of the effectiveness of the programs of Federal

agencies, State and local governments, and the private sector in carrying out the purposes of this Act.

Information from agencies

SEC. 203. The Council is authorized to secure directly from any department, bureau, agency, board, commission, office, independent establishment or instrumentality of the executive branch of the Federal Government information, suggestions, estimates, and statistics for the purpose of this title; and each such department or instrumentality is authorized to furnish such information, suggestions, estimates, and statistics to the extent permitted by law and within available funds.

Compensation of members

SEC. 204. The members of the Council specified in paragraphs (2), (3), and (4) of section 201 (a) shall serve without additional compensation. The other members of the Council shall receive $100 per diem when engaged in the performances of the duties of the Council. All members of the Council shall receive reimbursement for necessary traveling and subsistence expenses incurred by them in the performance of the duties of the Council.

Executive Director

SEC. 205. (a) There shall be an Executive Director of the Council who shall be appointed in the competitive service by the Chairman with the concurrence of the Council. The Executive Director shall report directly to the Council and perform such functions and duties as the Council may prescribe.

General Counsel and attorneys

(b) The Council shall have a General Counsel, who shall be appointed by the Executive Director. The General Counsel shall report directly to the Executive Director and serve as the Council's legal advisor. The Executive Director shall appoint such other attorneys as may be necessary to assist the General Counsel, represent the Council in courts of law whenever appropriate, including enforcement of agreements with Federal agencies to which the Council is a party, assist the Department of Justice in handling litigation concerning the Council in courts of law, and perform such other legal duties and functions as the Executive Director and the Council may direct.

Appointment and compensation of staff

(c) The Executive Director of the Council may appoint and fix the compensation of such officers and employees in the competitive service as are necessary to perform the functions of the Council at rates not to exceed that now or hereafter prescribed for the highest rate for grade 15 of the General Schedule under section 5332 of title 5, United States Code: *Provided, however,* That the Executive Director, with the concurrence of the Chairman, may appoint and fix the compensation of not to exceed five employees in the competitive service at rates not to exceed that now or hereafter prescribed for the highest rate of grade 17 of the General Schedule under section 5332 of Title 5, United States Code.

Appointment and compensation of additional personnel

(d) The Executive Director shall have power to appoint and fix the compensation of such additional personnel as may be necessary to carry out its duties, without regard to the provisions of the civil service laws and the Classification Act of 1949.

Consultants

(e) The Executive Director of the Council is authorized to procure expert and consultant services in accordance with the provisions of section 3109 of title 5, United States Code.

Financial and administrative services

(f) Financial and administrative services (including those related to budgeting, accounting, financial reporting, personnel and procurement) shall be provided the Council by the Department of the Interior, for which payments shall be made in advance, or by reimbursement, from funds of the Council in such amounts as may be agreed upon by the Chairman of the Council and the Secretary of the Interior; *Provided*, That the regulations of the Department of the Interior for the collection of indebtedness of personnel resulting from erroneous payments (5 U.S.C. 46e) shall apply to the collection of erroneous payments made to or on behalf of a Council employee, and regulations of said Secretary for the administrative control of funds (31 U.S.C. 665(g)) shall apply to appropriations of the Council: *And provided further*, That the Council shall not be required to prescribe such regulations.

Provision of assistance by members

(g) The members of the Council specified in paragraphs (2) through (4) of section 201(a) shall provide the Council, with or without reimbursement as may be agreed upon by the Chairman and the members, with such funds, personnel, facilities, and services under their jurisdiction and control as may be needed by the Council to carry out its duties, to the extent that such funds, personnel, facilities, and services are requested by the Council and are otherwise available for that purpose. To the extent of available appropriations, the Council may obtain, by purchase, rental, donation, or otherwise, such additional property, facilities, and services as may be needed to carry out its duties and may also receive donations of moneys for such purpose, and the Executive Director is authorized, in his discretion, to accept, hold, use, expend, and administer the same for the purposes of this Act.

International Centre for the Study of the Preservation and Restoration of Cultural Property; authorization

SEC. 206. (a) The participation of the United States as a member of the International Centre for the Study of the Preservation and Restoration of Cultural Property is hereby authorized.

Members of official delegation

(b) The Council shall recommend to the Secretary of State, after consultation with the Smithsonian Institution and other public and private organizations concerned with the technical problems of preservation, the members of the official delegation which will participate in the activities of the Centre on behalf of the United States. The Secretary of State shall appoint the members of the official delegation from the persons recommended to him by the Council.

Authorization for membership payment

(c) For the purposes of this section there is authorized to be appropriated an amount equal to the assessment for United States membership in the Centre for fiscal years 1979, 1980, 1981, and 1982: *Provided*, That no appropriation is authorized and no payment shall be made to the Centre in excess of 25 per centum of the total annual assessment of such organization. Authorization for payment of such assessment shall begin in fiscal year 1981, but shall include earlier costs.

Transfer of funds

SEC. 207. So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, held, used, programmed, or available or to be made available by the Department of the Interior in connection with the functions of the Council, as the Director of the Office of Management and Budget shall determine, shall be transferred from the Department to the Council within 60 days of the effective date of this Act.

Rights of Council employees

SEC. 208. Any employee in the competitive service of the United States transferred to the Council under the provisions of this section shall retain all rights, benefits, and privileges pertaining thereto held prior to such transfer.

Exemption from Federal Advisory Committee Act

SEC. 209. The Council is exempt from the provisions of the Federal Advisory Committee Act (86 Stat. 770), and the provisions of the Administrative Procedure Act (80 Stat. 381) shall govern the operations of the Council.

Submission to the Congress

SEC. 210. No officer or agency of the United States shall have any authority to require the Council to submit its legislative recommendations, or testimony, or comments on legislation to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress. In instances in which the Council voluntarily seeks to obtain the comments or review of any officer or agency of the United States, the Council shall include a description of such actions in its legislative recommendations, testimony, or comments on legislation which it transmits to the Congress.

Regulations for Section 106; local government participation

SEC. 211. The Council is authorized to promulgate such rules and regulations it deems necessary to govern the implementation of section 106 of this Act. The Council shall, by regulation, establish such procedures as may be necessary to provide for participation by local governments in proceedings and other actions taken by the Council with respect to undertakings referred to in section 106 which affect such local governments.

Council appropriation authorization

SEC. 212. (a) The Council shall submit its budget annually as a related agency of the Department of the Interior. To carry out the provisions of this title, there are authorized to be appropriated not more than $1,500,000 in fiscal year 1977, $1,750,000 in fiscal year 1978, and $2,000,000 in fiscal year 1979. There are authorized to be appropriated not to exceed $2,250,000 in fiscal year 1980, $2,500,000 in fiscal year 1981, $2,500,000 in fiscal year 1982, and $2,500,000 in fiscal year 1983.

Concurrent submission of budget to Congress

(b) Whenever the Council submits any budget estimate or request to the President or the Office of Management and Budget, it shall concurrently transmit copies of that estimate or request to the House and Senate Appropriations Committees and the House Committee on Interior and Insular Affairs and the Senate Committee on Energy and Natural Resources.

Reports from Secretary at request of Council

SEC. 213. To assist the Council in discharging its responsibilities under this Act, the Secretary at the request of the Chairman, shall provide a report to the Council detailing the significance of any historic property, describing the effects of any proposed undertaking on the affected property, and recommending measures to avoid, minimize, or mitigate adverse effects.

Exemptions for Federal activities from provisions of the Act

SEC. 214. The Council, with the concurrence of the Secretary, shall promulgate regulations or guidelines, as appropriate, under which Federal programs or undertakings may be exempted from any or all of the requirements of this Act when such exemption is determined to be consistent with the purposes of this Act, taking into consideration the magnitude of the exempted undertaking or program and the likelihood of impairment of historic properties.

Title III

Definitions

SEC. 301. As used in this Act, the term—

(1) "Agency" means agency as such term is defined in section 551 of title 5, United States Code, except that in the case of any Federal program exempted under section 214, the agency administering such program shall not be treated as an agency with respect to such program.

(2) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territories of the Pacific Islands.

(3) "Local government" means a city, county, parish, township, municipality, or borough, or any other general purpose political subdivision of any State.

(4) "Indian tribe" means the governing body of any Indian tribe, band, nation, or other group which is recognized as an Indian tribe by the Secretary of the Interior for which the United States holds land in trust or restricted status for the entity or its members. Such term also includes any Native village corporation, regional corporation, and Native Group established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1701 *et seq.*).

(5) "Historic property" or "historic resource" means any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion on the National Register, such term includes artifacts, records, and remains which are related to such a district, site, building, structure, or object.

(6) "National Register" or "Register" means the National Register of Historic Places established under section 101.

(7) "Undertaking" means any action as described in section 106.

(8) "Preservation" or "historic preservation" includes identification, evaluation, recordation, documentation, curation, acquisition, protection, management, rehabilitation, restoration, stabilization, maintenance and reconstruction, or any combination of the foregoing activities.

(9) "Cultural park" means a definable urban area which is distinguished by historic resources and land related to such resources and which constitutes an interpretive, educational, and recreational resource for the public at large.

(10) "Historic conservation district" means an urban area of one or more neighborhoods and which contains (A) historic properties, (B) buildings having similar or related architectural characteristics, (C) cultural cohesiveness, or (D) any combination of the foregoing.

(11) "Secretary" means the Secretary of the Interior except where otherwise specified.

(12) "State Historic Preservation Review Board" means a board, council, commission, or other similar collegial body established as provided in section 101(b)(1)(B)—

(A) the members of which are appointed by the State Historic Preservation Officer (unless otherwise provided for by State law),

(B) a majority of the members of which are professionals qualified in the following and related disciplines: history, prehistoric and historic archeology, architectural history, and architecture, and

(C) which has the authority to—

(i) review National Register nominations and appeals from nominations;

(ii) reviews appropriate documentation submitted in conjunction with the Historic Preservation Fund;

(iii) provide general advice and guidance to the State Historic Preservation Officer, and

(iv) perform such other duties as may be appropriate.

(13) "Historic preservation review commission" means a board, council, commission, or other similar collegial body which is established by State or local legislation as provided in section 101(c)(1)(B), and the members of which are appointed, unless otherwise provided by State or local legislation, by the chief elected official of the jurisdiction concerned from among—

(A) professionals in the disciplines of architecture, history, architectural history, planning, archeology, or related disciplines, to the extent such professionals are available in the community concerned, and

(B) such other persons as have demonstrated special interest, experience, or knowledge in history, architecture, or related disciplines and as will provide for an adequate and qualified commission.

Authority to expend funds for purposes of this Act

Sec. 302. Where appropriate, each Federal agency is authorized to expend funds appropriated for its authorized programs for the purposes of activities carried out pursuant to this Act, except to the extent appropriations legislation expressly provides otherwise.

Donations to Secretary; money and personal property

Sec. 303. (a) The Secretary is authorized to accept donations and bequests of money and personal property for the purposes of this Act and shall hold, use, expend, and administer the same for such purposes.

Donations of less than fee interests in real property

(b) The Secretary is authorized to accept gifts or donations of less than fee interests in any historic property where the acceptance of such interests will facilitate the conservation or preservation of such properties. Nothing in this section or in any provision of this Act shall be construed to affect or impair any other authority of the Secretary under other provision of law to accept or acquire any property for conservation or preservation or for any other purpose.

Confidentiality of the location of sensitive historic resources

Sec. 304. The head of any federal agency, after consultation with the Secretary, shall withhold from disclosure to the public, information relating to the location or character of historic resources whenever the head of the agency or the Secretary determines that the disclosure of such information may create a substantial risk of harm, theft, or destruction to such resources or to the area or place where such resources are located.

Attorneys' fees

Sec. 305. In any civil action brought in any United States district court by any interested person to enforce the provisions of this Act, if such person substantially prevails in such action, the court may award attorneys' fees, expert witness fees, and other costs of participating in such action, as the court deems reasonable.

National Center for the Building Arts

Sec. 306. (a) In order to provide a national center to commemorate and encourage the building arts and to preserve and maintain a nationally significant building which exemplifies the great achievements of the building arts in the United States, the Secretary and the Administrator of the General Services Administration are authorized and directed to enter into a cooperative agreement with the Committee for a National Museum of the Building Arts, Incorporated, a nonprofit corporation organized and existing under the laws of the District of Columbia, or its successor, for the operation of a National Museum for the Building Arts in the Federal Building located in the block bounded by Fourth Street, Fifth Street, F Street, and G Street, Northwest in Washington, District of Columbia. Such museum shall—

(1) collect and disseminate information concerning the building arts, including the establishment of a national reference center for current and historic documents, publications, and research relating to the building arts;

(2) foster education programs relating to the history, practice and contribution to society of the building arts, including promotion of imaginative educational approaches to enhance understanding and appreciation of all facets of the building arts;

(3) publicly display temporary and permanent exhibits illustrating, interpreting and demonstrating the building arts;

(4) sponsor or conduct research and study into the history of the building arts and their role in shaping our civilization; and

(5) encourage contributions to the building arts.

Cooperative agreement

(b) The cooperative agreement referred to in subsection (a) shall include provisions which—

(1) make the site available to the Committee referred to in subsection (a) without charge;

(2) provide, subject to available appropriations, such maintenance, security, information, janitorial and other services as may be necessary to assure the preservation and operation of the site; and

(3) prescribe reasonable terms and conditions by which the Committee can fulfill its responsibilities under this Act.

Grants to Committee

(c) The Secretary is authorized and directed to provide matching grants-in-aid to the Committee referred to in subsection (a) for its programs related to historic preservation. The Committee shall match such grants-in-aid in a manner and with such funds and services as shall be satisfactory to the Secretary, except that no more than $500,000 may be provided to the Committee in any one fiscal year.

Site renovation

(d) The renovation of the site shall be carried out by the Administrator with the advice of the Secretary. Such renovation shall, as far as practicable—

(1) be commenced immediately,

(2) preserve, enhance, and restore the distinctive and historically authentic architectural character of the site consistent with the needs of a national museum of the building arts and other compatible use, and

(3) retain the availability of the central court of the building, or portions thereof, for appropriate public activities.

Annual report

(e) The Committee shall submit an annual report to the Secretary and the Administrator concerning its activities under this section and shall provide the Secretary and the Administrator with such other information as the Secretary may, from time to time, deem necessary or advisable.

Definition of "building arts"

(f) For purposes of this section, the term "building arts" includes, but shall not be limited to, all practical and scholarly aspects of prehistoric, historic, and contemporary architecture, archeology, construction, building technology and skills, landscape architecture, preservation and conservation, building and construction, engineering, urban and community design and renewal, city and regional planning, and related professions, skills, trades and crafts.

Transmittal of regulations to Congressional committees

SEC. 307. (a) At least thirty days prior to publishing in the Federal Register any proposed regulation required by this Act, the Secretary shall transmit a copy of the regulation to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. The Secretary also shall transmit to such committees a copy of any final regulation prior to its publication in the Federal Register. Except as provided in subsection (b) of this section, no final regulation of the Secretary shall become effective prior to the expiration of thirty calendar days after it is published in the Federal Register during which either or both Houses of Congress are in session.

Emergency regulations

(b) In the case of an emergency, a final regulation of the Secretary may become effective without regard to the last sentence of subsection (a) if the Secretary notified in writing the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate setting forth the reasons why it is necessary to make the regulation effective prior to the expiration of the thirty-day period.

Disapproval by Congress

(c) Except as provided in subsection (b), the regulation shall not become effective if, within ninety calendar days of continuous session of Congress after the date of promulgation, both Houses of Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: "That Congress disapproves the regulation promulgated by the Secretary dealing with the matter of _____, which regulation was transmitted to Congress on _____." the blank spaces therein being appropriately filled.

Inaction by Congress

(d) If at the end of sixty calendar days of continuous session of Congress after the date of promulgation of a regulation, no committee of either House of Congress has reported or been discharged from further consideration of a concurrent resolution disapproving the regulation, and neither House has adopted such a resolution, the regulation may go into effect immediately. If, within such sixty calendar days, such a committee has reported or been discharged from further consideration of such a resolution, the regulation may go into effect not sooner than ninety calendar days of continuous session of Congress after its promulgation unless disapproved as provided for.

Definitions

(e) For the purposes of this section--

(1) continuity of session is broken only by an adjournment sine die; and

(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of sixty and ninety calendar days of continuous session of Congress.

Effect of Congressional inaction.

(f) Congressional inaction on or rejection of a resolution of disapproval shall not be deemed an expression of approval of such regulation.

Title IV

International activities and World Heritage Convention

SEC. 401. (a) The Secretary of the Interior shall direct and coordinate United States participation in the Convention Concerning the Protection of the World Cultural and Natural Heritage, approved by the Senate on October 26, 1973, in cooperation with the Secretary of State, the Smithsonian Institution, and the Advisory Council on Historic Preservation. Whenever possible, expenditures incurred in carrying out activities in cooperation with other nations and international organizations shall be paid for in such excess currency of the country or area where the expense is incurred as may be available to the United States.

Nomination of properties to World Heritage List

(b) The Secretary of the Interior shall periodically nominate properties he determines are of international significance to the World Heritage Committee on behalf of the United States. No property may be so nominated unless it has previously been determined to be of national significance. Each such nomination shall include evidence of such legal protections as may be necessary to ensure preservation of the property and its environment (including restrictive covenants, easements, or other forms of protection). Before making any such nomination, the Secretary shall notify the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate.

Concurrence of non-Federal property owners

(c) No non-Federal property may be nominated by the Secretary of the Interior to the World Heritage Committee for inclusion on the World Heritage List unless the owner of the property concurs in writing to such nomination.

International Federal activities affecting historic properties

SEC. 402. Prior to the approval of any Federal undertaking outside the United States which may directly and adversely affect a property which is on the World Heritage List or on the applicable country's equivalent of the National Register, the head of a Federal agency having direct or indirect jurisdiction over such undertaking shall take into account the effect of the undertaking on such property for purposes of avoiding or mitigating any adverse effects.

Laws Governing National Historic Landmarks

National Historic Landmarks are buildings, historic districts, structures, sites, and objects that possess exceptional value in commemorating or illustrating the history of the United States. They are so designated by the Secretary of the Interior after identification by National Park Service professionals and evaluation by the National Park System Advisory Board, a committee of scholars and other citizens. The inventory of nationally significant properties begun in 1935 was eventually expanded by the National Historic Preservation Act of 1966 and was incorporated into the newly created National Register of Historic Places.

When the National Historic Landmark program was enacted, it was designed, in part, to identify nationally significant properties which might be considered for inclusion in the National Park System. However, it became apparent over the years that Federal ownership of all nationally significant properties was not practical or economically feasible. Therefore, the development of alternative means for ensuring the preservation of National Historic Landmarks became necessary. Today, the National Historic Preservation Act of 1966, as amended, is the basic Federal law for identification, designation, and protection of National Historic Landmarks. Section 8 of the General Authorities Act of 1970 directed the Secretary of the Interior to submit an annual report to Congress identifying National Historic Landmarks that exhibit known or potential damage or threats to their integrity and Section 9 of the Mining in the National Parks Act of 1976 requires consultation with the Advisory Council on Historic Preservation to protect Landmarks threatened with destruction by surface mining activities. Using the full variety of Federal preservation laws, including the Internal Revenue Code, the National Park Service has developed a number of innovative programs to provide some measure of preservation assistance to owners of National Historic Landmarks.

While the Historic Sites Act of 1935 and the National Historic Preservation Act of 1966, as amended, remain the underlying authority for the National Historic Landmarks program, the text of those laws is not repeated in this chapter; refer to previous chapter (*Laws Governing National Historic Preservation Programs*) for appropriate statutory provisions.

Section 8 of the General Authorities Act Amendments of 1976[3]

Investigation and study

Reports to Speaker of the House and President of the Senate

Annual listing, transmittal to Speaker of the House and President of the Senate

Printing as House document

SEC. 8. The Secretary of the Interior is directed to investigate, study, and continually monitor the welfare of areas whose resources exhibit qualities of national significance and which may have potential for inclusion in the National Park System. At the beginning of each fiscal year, the Secretary shall transmit to the Speaker of the House of Representatives and to the President of the Senate, comprehensive reports on each of those areas upon which studies have been completed. On this same date, and accompanying such reports, the Secretary shall transmit a listing, in generally descending order of importance or merit, of not less than twelve such areas which appear to be of national significance and which may have potential for inclusion in the National Park System. Threats to resource values, and cost escalation factors shall be considered in listing the order of importance or merit. Such listing may be comprised of any areas heretofore submitted under terms of this section, and which at the time of listing are not included in the National Park System. The Secretary is also directed to transmit annually to the Speaker of the House of Representatives and to the President of the Senate, at the beginning of each fiscal year, a complete and current list of all areas included on the Registry of Natural Landmarks and those areas of national significance listed on the National Register of Historic places which areas exhibit known or anticipated damage or threats to the integrity of their resources, along with notations as to the nature and severity of such damage or threats. Each report and annual listing shall be printed as a House document.

[3] This title is not an official short title but is merely a popular name for the convenience of the reader; Section 8 has no official short title. Section 8 (16 U.S.C. 1-5), as set forth herein, is contained in Public Law 94-458 (October 7, 1976).

Section 9 of the Mining in the National Parks Act of 1976[4]

Landmarks

SEC. 9. (a) Whenever the Secretary of the Interior finds on his own motion or upon being notified in writing by an appropriate scientific, historical, or archeological authority, that a district, site, building, structure, or object which has been found to be nationally significant in illustrating natural history or the history of the United States and which has been designated as a natural or historical landmark may be irreparably lost or destroyed in whole or in part by any surface mining activity, including exploration for or removal or production of minerals or materials, he shall notify the person conducting such activity and submit a report thereon, including the basis for his finding that such activity may cause irreparable loss or destruction of a national landmark, to the Advisory Council on Historic Preservation, with a request for advice of the Council as to alternative measures that may be taken by the United States to mitigate or abate such activity.

Report to Advisory Council on Historic Preservation

Report to Congress

(b) The Council shall within two years from the effective date of this section submit to the Congress a report on the actual or potential effects of surface mining activities on natural and historical landmarks and shall include with its report its recommendations for such legislation as may be necessary and appropriate to protect natural and historical landmarks from activities, including surface mining activities, which may have an adverse impact on such landmarks.

Legislative recommendations

[4] This title is not an official short title but is merely a popular name for the convenience of the reader; Section 9 has no official short title. Section 9 (16 U.S.C. 1908), as set forth herein, is contained in Public Law 94-429 (September 28, 1976).

Laws Governing the Federal Archeology Program

The preservation and protection of archeological resources presents a unique challenge because of the nature of the resources. They are generally not visible to the untrained eye, leading to unintended destruction; many are in isolated locations, making their identification and protection difficult. Finally, the value of many archeological resources stems from the scientific information they contain or their significance to Native American cultural and religious practices. The destruction and looting of early Native American sites and structures in the American Southwest became the impetus for enactment of the first general Federal preservation law, the Antiquities Act of 1906; this law provided protection for archeological resources on public lands, roughly one third of the nation. While statutes dedicated solely to archeological considerations and resources continue to be enacted, the national historic preservation laws listed previously also protect archeological resources.

Today, the primary means for protecting archeological resources is to leave them undisturbed whenever possible. When resources cannot be preserved in place, they are scientifically excavated, removed, and preserved in museums. To facilitate such protection, the principal Federal archeological preservation laws (the Reservoir Salvage Act, as amended by the Archeological and Historic Preservation Act of 1974 and other statutes, and the Archaeological Resources Protection Act of 1979) mandate identification, scientific investigation, and resource recovery by Federal agencies whose activities may cause the loss or destruction of archeological resources and authorize the expenditure of project funds for such activities.

Antiquities Act of 1906[5]

AN ACT For the preservation of American antiquities.

Penalties for destruction of antiquities

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any person who shall appropriate, excavate, injure, or destroy any historic or prehistoric ruin or monument, or any object of antiquity, situated on lands owned or controlled by the Government of the United States, without the permission of the Secretary of the Department of the Government having jurisdiction over the lands on which said antiquities are situated, shall upon conviction, be fined in a sum of not more than five hundred dollars or be imprisoned for a period of not more than ninety days, or shall suffer both fine and imprisonment, in the discretion of the court.

Proclamation of national monuments

SEC. 2. That the President of the United States is hereby authorized, in his discretion, to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Government of the United States to be national monuments, and may reserve as a part thereof parcels of land, the limits of which in all cases shall be confined to the smallest area compatible with the proper care and management of the objects to be protected: *Provided,* That when such objects are situated upon a tract covered by a bona fide unperfected claim or held in private ownership, the tract, or so much thereof as may be necessary for the proper care and management of the object, may be relinquished to the Government, and the Secretary of the Interior is hereby authorized to accept the relinquishment of such tracts in behalf of the Government of the United States.

Permits for excavation

SEC. 3. That permits for the examination of ruins, the excavation of archaeological sites, and the gathering of objects of antiquity upon the lands under their respective jurisdictions may be granted by the Secretaries of the Interior, Agriculture, and War to institutions which they may deem properly qualified to conduct such examination, excavation, or gathering, subject to such rules and regulations as they may prescribe: *Provided,* That the examinations, excavations, and gatherings are undertaken for the benefit of reputable museums, universities, colleges, or other recognized scientific or educational institutions, with a view to increasing the knowledge of such objects, and that the gatherings shall be made for permanent preservation in public museums.

Rules and regulations

SEC. 4. That the Secretaries of the Departments aforesaid shall make and publish from time to time uniform rules and regulations for the purpose of carrying out the provisions of this Act.

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[5] This title is not an official short title but merely a popular name used for the convenience of the reader; the Act has no official short title. The Antiquities Act of 1906 (16 U.S.C. 431, 432, 433), as set forth herein, consists of Public Law 59-209 (June 8, 1906).

Archeological and Historic Preservation Act of 1974, as amended[6]

AN ACT To provide for the preservation of historical and archeological data (including relics and specimens) which might otherwise be lost as the result of the construction of a dam.

Purpose

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the purpose of this Act to further the policy set forth in the Act entitled "An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes", approved August 21, 1935 (16 U.S.C. 461–467), by specifically providing for the preservation of historical and archeological data (including relics and specimens) which might otherwise be irreparably lost or destroyed as the result of (1) flooding, the building of access roads, the erection of workmen's communities, the relocation of railroads and highways, and other alterations of the terrain caused by the construction of a dam by any agency of the United States, or by any private person or corporation holding a license issued by any such agency or (2) any alteration of the terrain caused as a result of any Federal construction project or federally licensed activity or program.

Notice to Secretary of the Interior

SEC. 2. Before any agency of the United States shall undertake the construction of a dam, or issue a license to any private individual or corporation for the construction of a dam, it shall give written notice to the Secretary of the Interior (hereafter referred to as the Secretary) setting forth the site of the proposed dam and the approximate area to be flooded and otherwise changed if such construction is undertaken: *Provided,* That with respect to any flood-water retarding dam which provides less than five thousand acre-feet of detention capacity and with respect to any other type of dam which creates a reservoir of less than forty surface acres the provisions of this section shall apply only when the constructing agency, in its preliminary surveys, finds, or is presented with evidence that historical or archeological materials exist or may be present in the proposed reservoir area.

Data recovery

SEC. 3. (a) Whenever any Federal agency finds, or is notified, in writing, by an appropriate historical or archeological authority, that its activities in connection with any Federal construction project or federally licensed project, activity, or program may cause irreparable loss or destruction of significant scientific, prehistorical, historical, or archeological data, such agency shall notify the Secretary, in writing, and shall provide the Secretary with appropriate information concerning the project, program, or activity. Such agency may request the Secretary to undertake the recovery, protection, and preservation of such data (including preliminary survey, or other investigation as needed, and analysis and publication of the reports resulting from such investigation), or it may, with funds appropriated for such project, program, or activity, undertake such activities. Copies of reports of any investigations made pursuant to this section shall be submitted to the Secretary, who shall make them available to the public for inspection and review.

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[6] This title is not the official short title but is merely a popular name used for the convenience of the reader. The Act is also commonly known as the "Archeological Recovery Act" or the "Moss-Bennett Act." The Archeological and Historic Preservation Act of 1974 (16 U.S.C. 469–469c), as set forth herein, consists of Public Law 86–532 (June 27, 1960) and amendments thereto.

(b) Whenever any Federal agency provides financial assistance by loan, grant, or otherwise to any private person, association, or public entity, the Secretary, if he determines that significant scientific, prehistorical, historical, or archeological data might be irrevocably lost or destroyed, may with funds appropriated expressly for this purpose conduct, with the consent of all persons, associations, or public entities having a legal interest in the property involved, a survey of the affected site and undertake the recovery, protection, and preservation of such data (including analysis and publication). The Secretary shall, unless otherwise mutually agreed to in writing, compensate any person, association, or public entity damaged as a result of delays in construction or as a result of the temporary loss of the use of private or any nonfederally owned lands.

SEC. 4. (a) The Secretary, upon notification, in writing, by any Federal or State agency or appropriate historical or archeological authority that scientific, prehistorical, historical, or archeological data is being or may be irrevocably lost or destroyed by any Federal or federally assisted or licensed project, activity, or program, shall if he determines that such data is significant and is being or may be irrevocably lost or destroyed and after reasonable notice to the agency responsible for funding or licensing such project, activity, or program, conduct or cause to be conducted a survey and other investigation of the areas which are or may be affected and recover and preserve such data (including analysis and publication) which, in his opinion, are not being, but should be, recovered and preserved in the public interest.

Waiver in event of natural disaster

(b) No survey or recovery work shall be required pursuant to this section which, in the determination of the head of the responsible agency, would impede Federal or federally assisted or licensed projects or activities undertaken in connection with any emergency, including projects or activities undertaken in anticipation of, or as a result of, a natural disaster.

(c) The Secretary shall initiate the survey or recovery effort within sixty days after notification to him pursuant to subsection (a) of this section or within such time as may be agreed upon with the head of the agency responsible for funding or licensing the project, activity, or program in all other cases.

Compensation as a result of delay

(d) The Secretary shall, unless otherwise mutually agreed to in writing, compensate any person, association, or public entity damaged as a result of delays in construction or as a result of the temporary loss of the use of private or nonfederally owned land.

SEC. 5. (a) The Secretary shall keep the agency responsible for funding or licensing the project notified at all times of the progress of any survey made under this Act, or of any work undertaken as a result of such survey, in order that there will be as little disruption or delay as possible in the carrying out of the functions of such agency and the survey and recovery programs shall terminate at a time mutually agreed upon by the Secretary and the head of such agency unless extended by mutual agreement.

Repositories for relics and specimens

(b) The Secretary shall consult with any interested Federal and State agencies, educational and scientific organizations, and private institutions and qualified individuals, with a view to determining the ownership of and the most appropriate repository for any relics and specimens recovered as a result of any work performed as provided for in this section.

Annual report to Congress

(c) The Secretary shall coordinate all Federal survey and recovery activities authorized under this Act and shall submit an annual report at the end of each fiscal year to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate indicating the scope and effectiveness of the program, the specific projects surveyed and the results produced, and the costs incurred by the Federal Government as a result thereof.

SEC. 6. In the administration of this Act, the Secretary may—

(1) enter into contracts or make cooperative agreements with any Federal or State agency, any educational or scientific organization, or any institution, corporation, association, or qualified individual; and

(2) obtain the services of experts and consultants or organizations thereof in accordance with section 3109 of title 5, United States Code; and

(3) accept and utilize funds made available for salvage archeological purposes by any private person or corporation or transferred to him by any Federal agency.

Use of project funds

SEC. 7 (a) To carry out the purposes of this Act, any Federal agency responsible for a construction project may assist the Secretary and/or it may transfer to him such funds as may be agreed upon, but not more than 1 per centum of the total amount authorized to be appropriated for such project, except that the 1 per centum limitation of this section shall not apply in the event that the project involves $50,000 or less: *Provided,* That the costs of such survey, recovery, analysis, and publication shall be considered nonreimbursable project costs.

(b) For the purposes of subsection 3(b), there are authorized to be appropriated such sums as may be necessary, but not more than $500,000 in fiscal year 1974; $1,000,000 in fiscal year 1975; $1,500,000 in fiscal year 1976; $1,500,000 in fiscal year 1977; $1,500,000 in fiscal year 1978; $500,000 in fiscal year 1979; $1,000,000 in fiscal year 1980; $1,500,000 in fiscal year 1981; $1,500,000 in fiscal year 1982; and $1,500,000 in fiscal year 1983.

(c) For the purposes of subsection 4(a), there are authorized to be appropriated not more than $2,000,000 in fiscal year 1974; $2,000,000 in fiscal year 1975; $3,000,000 in fiscal year 1976; $3,000,000 in fiscal year 1977; $3,000,000 in fiscal year 1978; $3,000,000 in fiscal year 1979; $3,000,000 in fiscal year 1980; $3,500,000 in fiscal year 1981; $3,500,000 in fiscal year 1982; and $4,000,000 in fiscal year 1983.

(d) Beginning fiscal year 1979, sums appropriated for purposes of section 7 shall remain available until expended.

SEC. 8. As used in this Act, the term "State" includes the several States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

Archaeological Resources Protection Act of 1979[7]

AN ACT To protect archaeological resources on public lands and Indian lands, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Short Title

SEC. 1. This Act may be cited as the "Archaeological Resources Protection Act of 1979".

Findings and Purpose

SEC. 2. (a) The Congress finds that—

(1) archaeological resources on public lands and Indian lands are an accessible and irreplaceable part of the Nation's heritage;

(2) these resources are increasingly endangered because of their commercial attractiveness;

(3) existing Federal laws do not provide adequate protection to prevent the loss and destruction of these archaeological resources and sites resulting from uncontrolled excavations and pillage; and

(4) there is a wealth of archaeological information which has been legally obtained by private individuals for noncommercial purposes and which could voluntarily be made available to professional archaeologists and institutions.

(b) The purpose of this Act is to secure, for the present and future benefit of the American people, the protection of archaeological resources and sites which are on public lands and Indian lands, and to foster increased cooperation and exchange of information between governmental authorities, the professional archaeological community, and private individuals having collections of archaeological resources and data which were obtained before the date of the enactment of this Act.

Definitions

SEC. 3. As used in this Act—

(1) The term "archaeological resource" means any material remains of past human life or activities which are of archaeological interest, as determined under uniform regulations promulgated pursuant to this Act. Such regulations containing such determination shall include, but not be limited to: pottery, basketry, bottles, weapons, weapon projectiles, tools, structures or portions of structures, pit houses, rock paintings, rock carvings, intaglios, graves, human skeletal materials, or any portion or piece of any of the foregoing items. Nonfossilized and fossilized paleontological specimens, or any portion or piece thereof, shall not be considered archaeological resources, under the regulations under this paragraph, unless found in an archaeological context. No item shall be treated as an archaeological resource under regulations under this paragraph unless such item is at least 100 years of age.

[7] The Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa–470mm), as set forth herein, consists of Public Law 96-96 (October 31, 1979) and amendments thereto.

(2) The term "Federal land manager" means, with respect to any public lands, the Secretary of the department, or the head of any other agency or instrumentality of the United States, having primary management authority over such lands. In the case of any public lands or Indian lands with respect to which no department, agency, or instrumentality has primary management authority, such term means the Secretary of the Interior. If the Secretary of the Interior consents, the responsibilities (in whole or in part) under this Act of the Secretary of any department (other than the Department of the Interior) or the head of any other agency or instrumentality may be delegated to the Secretary of the Interior with respect to any land managed by such other Secretary or agency head, and in any such case, the term "Federal land manager" means the Secretary of the Interior.

(3) The term "public lands" means—

(A) lands which are owned and administered by the United States as part of—

(i) the national park system,

(ii) the national wildlife refuge system, or

(iii) the national forest system; and

(B) all other lands the fee title to which is held by the United States, other than lands on the Outer Continental Shelf and lands which are under the jurisdiction of the Smithsonian Institution.

(4) The term "Indian lands" means lands of Indian tribes, or Indian individuals, which are either held in trust by the United States or subject to a restriction against alienation imposed by the United States, except for any subsurface interests in lands not owned or controlled by an Indian tribe or an Indian individual.

(5) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (85 Stat. 688).

(6) The term "person" means an individual, corporation, partnership, trust, institution, association, or any other private entity or any officer, employee, agent, department, or instrumentality of the United States, of any Indian tribe, or of any State or political subdivision thereof.

(7) The term "State" means any of the fifty States, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.

Excavation and Removal

Permit application.

SEC. 4. (a) Any person may apply to the Federal land manager for a permit to excavate or remove any archaeological resource located on public lands or Indian lands and to carry out activities associated with such excavation or removal. The application shall be required, under uniform regulations under this Act, to contain such information as the Federal land manager deems necessary, including information concerning the time, scope, and location and specific purpose of the proposed work.

(b) A permit may be issued pursuant to an application under subsection (a) if the Federal land manager determines, pursuant to uniform regulations under this Act, that—

(1) the applicant is qualified, to carry out the permitted activity,

(2) the activity is undertaken for the purpose of furthering archaeological knowledge in the public interest,

(3) the archaeological resources which are excavated or removed from public lands will remain the property of the United States, and such resources and copies of associated archaeological records and data will be preserved by a suitable university, museum, or other scientific or educational institution, and

(4) the activity pursuant to such permit is not inconsistent with any management plan applicable to the public lands concerned.

(c) If a permit issued under this section may result in harm to, or destruction of, any religious or cultural site, as determined by the Federal land manager, before issuing such permit, the Federal land manager shall notify any Indian tribe which may consider the site as having religious or cultural importance. Such notice shall not be deemed a disclosure to the public for purposes of section 9.

(d) Any permit under this section shall contain such terms and conditions, pursuant to uniform regulations promulgated under this Act, as the Federal land manager concerned deems necessary to carry out the purposes of this Act.

(e) Each permit under this section shall identify the individual who shall be responsible for carrying out the terms and conditions of the permit and for otherwise complying with this Act and other law applicable to the permitted activity.

(f) Any permit issued under this section may be suspended by the Federal land manager upon his determination that the permittee has violated any provision of subsection (a), (b), or (c) of section 6. Any such permit may be revoked by such Federal land manager upon assessment of a civil penalty under section 7 against the permittee or upon the permittee's conviction under section 6.

(g)(1) No permit shall be required under this section or under the Act of June 8, 1906 (16 U.S.C. 431), for the excavation or removal by any Indian tribe or member thereof of any archaeological resource located on Indian lands of such Indian tribe, except that in the absence of tribal law regulating the excavation or removal of archaeological resources on Indian lands, an individual tribal member shall be required to obtain a permit under this section.

(2) In the case of any permits for the excavation or removal of any archaeological resource located on Indian lands, the permit may be granted only after obtaining the consent of the Indian or Indian tribe owning or having jurisdiction over such lands. The permit shall include such terms and conditions as may be requested by such Indian or Indian tribe.

(h)(1) No permit or other permission shall be required under the Act of June 8, 1906 (16 U.S.C. 431–433), for any activity for which a permit is issued under this section.

(2) Any permit issued under the Act of June 8, 1906, shall remain in effect according to its terms and conditions following the enactment of this Act. No permit under this Act shall be required to carry out any activity under a permit issued under the Act of June 8, 1906, before the date of the enactment of this Act which remains in effect as provided in this paragraph, and nothing in this Act shall modify or affect any such permit.

(i) Issuance of a permit in accordance with this section and applicable regulations shall not require compliance with section 106 of the Act of October 15, 1966 (80 Stat. 917, 16 U.S.C. 470f).

(j) Upon the written request of the Governor of any State, the Federal land manager shall issue a permit, subject to the provisions of subsections (b)(3), (b)(4), (c), (e), (f), (g), (h), and (i) of this section for the purpose of conducting archaeological research, excavation, removal, and curation, on behalf of the State or its educational institutions, to such Governor or to such designee as the Governor deems qualified to carry out the intent of this Act.

Custody of Resources

Regulations.

SEC. 5. The Secretary of the Interior may promulgate regulations providing for—

(1) the exchange, where appropriate, between suitable universities, museums, or other scientific or educational institutions, of archaeological resources removed from public lands and Indian lands pursuant to this Act, and

(2) the ultimate disposition of such resources and other resources removed pursuant to the Act of June 27, 1960 (16 U.S.C. 469–469c) or the Act of June 8, 1906 (16 U.S.C. 431–433).

Any exchange or ultimate disposition under such regulation of archaeological resources excavated or removed from Indian lands shall be subject to the consent of the Indian or Indian tribe which owns or has jurisdiction over such lands. Following promulgation of regulations under this section, notwithstanding any other provision of law, such regulations shall govern the disposition of archaeological resources removed from public lands and Indian lands pursuant to this Act.

Prohibited Acts and Criminal Penalties

SEC. 6. (a) No person may excavate, remove, damage, or otherwise alter or deface or attempt to excavate, remove, damage, or otherwise alter or deface any archaeological resource located on public lands or Indian lands unless such activity is pursuant to a permit issued under section 4, a permit referred to in section 4(h)(2), or the exemption contained in section 4(g)(1).

(b) No person may sell, purchase, exchange, transport, receive, or offer to sell, purchase, or exchange any archaeological resource if such resource was excavated or removed from public lands or Indian lands in violation of—

(1) the prohibition contained in subsection (a), or

(2) any provision, rule, regulation, ordinance, or permit in effect under any other provision of Federal law.

(c) No person may sell, purchase, exchange, transport, receive, or offer to sell, purchase, or exchange, in interstate or foreign com-

merce, any archaeological resource excavated, removed, sold, purchased, exchanged, transported, or received in violation of any provision, rule, regulation, ordinance, or permit in effect under State or local law.

(d) Any person who knowingly violates, or counsels, procures, solicits, or employs any other person to violate, any prohibition contained in subsection (a), (b), or (c) of this section shall, upon conviction, be fined not more than $10,000 or imprisoned not more than one year, or both: *Provided, however,* That if the commercial or archaeological value of the archaeological resources involved and the cost of restoration and repair of such resources exceeds the sum of $500 such person shall be fined not more than $20,000 or imprisoned not more than two years, or both. In the case of a second or subsequent such violation upon conviction such person shall be fined not more than $100,000, or imprisoned not more than five years, or both.

(e) The prohibitions contained in this section shall take effect on the date of the enactment of this Act.

(f) Nothing in subsection (b)(1) of this section shall be deemed applicable to any person with respect to an archaeological resource which was in the lawful possession of such person prior to the date of the enactment of this Act.

(g) Nothing in subsection (d) of this section shall be deemed applicable to any person with respect to the removal of arrowheads located on the surface of the ground.

Civil Penalties

SEC. 7. (a)(1) Any person who violates any prohibition contained in an applicable regulation or permit issued under this Act may be assessed a civil penalty by the Federal land manager concerned. No penalty may be assessed under this subsection unless such person is given notice and opportunity for a hearing with respect to such violation. Each violation shall be a separate offense. Any such civil penalty may be remitted or mitigated by the Federal land manager concerned.

(2) The amount of such penalty shall be determined under regulations promulgated pursuant to this Act, taking into account, in addition to other factors—

(A) the archaeological or commercial value of the archaeological resource involved, and

(B) the cost of restoration and repair of the resource and the archaeological site involved.

Such regulations shall provide that, in the case of a second or subsequent violation by any person, the amount of such civil penalty may be double the amount which would have been assessed if such violation were the first violation by such person. The amount of any penalty assessed under this subsection for any violation shall not exceed an amount equal to double the cost of restoration and repair of resources and archaeological sites damaged and double the fair market value of resources destroyed or not recovered.

(3) No penalty shall be assessed under this section for the removal of arrowheads located on the surface of the ground.

(b)(1) Any person aggrieved by an order assessing a civil penalty under subsection (a) may file a petition for judicial review of such order with the United States District Court for the District of Columbia or for any other district in which such a person resides or transacts business. Such a petition may only be filed within the 30-day period beginning on the date the order making such assessment was issued. The court shall hear such action on the record made before the Federal land manager and shall sustain his action if it is supported by substantial evidence on the record considered as a whole.

(2) If any person fails to pay an assessment of a civil penalty—

(A) after the order making the assessment has become a final order and such person has not filed a petition for judicial review of the order in accordance with paragraph (1), or

(B) after a court in an action brought under paragraph (1) has entered a final judgment upholding the assessment of a civil penalty, the Federal land managers may request the Attorney General to institute a civil action in a district court of the United States for any district in which such person is found, resides, or transacts business to collect the penalty and such court shall have jurisdiction to hear and decide any such action. In such action, the validity and amount of such penalty shall not be subject to review.

(c) Hearings held during proceedings for the assessment of civil penalties authorized by subsection (a) shall be conducted in accordance with section 554 of title 5 of the United States Code. The Federal land manager may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpena served upon any person pursuant to this paragraph, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Federal land manager or to appear and produce documents before the Federal land manager, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

Subpenas.

Witness fees.

Rewards; Forfeiture

SEC. 8. (a) Upon the certification of the Federal land manager concerned, the Secretary of the Treasury is directed to pay from penalties and fines collected under sections 6 and 7 an amount equal to one-half of such penalty or fine, but not to exceed $500, to any person who furnishes information which leads to the finding of a civil violation, or the conviction of criminal violation, with respect to which such penalty or fine was paid. If several persons provided such information, such amount shall be divided among such persons. No officer or employee of the United States or of any State or local government who furnishes information or renders service in the performance of his official duties shall be eligible for payment under this subsection.

(b) All archaeological resources with respect to which a violation of subsection (a), (b), or (c) of section 6 occurred and which are in

the possession of any person, and all vehicles and equipment of any person which were used in connection with such violation, may be (in the discretion of the court or administrative law judge, as the case may be) subject to forfeiture to the United States upon—

(1) such person's conviction of such violation under section 6,

(2) assessment of a civil penalty against such person under section 7 with respect to such violation, or

(3) a determination by any court that such archaeological resources, vehicles, or equipment were involved in such violation.

(c) In cases in which a violation of the prohibition contained in subsection (a), (b), or (c) of section 6 involve archaeological resources excavated or removed from Indian lands, the Federal land manager or the court, as the case may be, shall provide for the payment to the Indian or Indian tribe involved of all penalties collected pursuant to section 7 and for the transfer to such Indian or Indian tribe of all items forfeited under this section.

Confidentiality

SEC. 9. (a) Information concerning the nature and location of any archaeological resource for which the excavation or removal requires a permit or other permission under this Act or under any other provision of Federal law may not be made available to the public under subchapter II of chapter 5 of title 5 of the United States Code or under any other provision of law unless the Federal land manager concerned determines that such disclosure would—

(1) further the purposes of this Act or the Act of June 27, 1960 (16 U.S.C. 469–469c), and

(2) not create a risk of harm to such resources or to the site at which such resources are located.

(b) Notwithstanding the provisions of subsection (a), upon the written request of the Governor of any State, which request shall state—

(1) the specific site or area for which information is sought,

(2) the purpose for which such information is sought,

(3) a commitment by the Governor to adequately protect the confidentiality of such information to protect the resource from commercial exploitation,

the Federal land manager concerned shall provide to the Governor information concerning the nature and location of archaeological resources within the State of the requesting Governor.

Regulations; Intergovernmental Coordination

Rules and regulations.

SEC. 10. (a) The Secretaries of the Interior, Agriculture and Defense and the Chairman of the Board of the Tennessee Valley Authority, after consultation with other Federal land managers, Indian tribes, representatives of concerned State agencies, and after public notice and hearing, shall promulgate such uniform rules and regulations as may be appropriate to carry out the purposes of this Act. Such rules and regulations may be promulgated only after consideration of the provisions of the American Indian Religious Freedom Act (92 Stat. 469; 42 U.S.C. 1996). Each uniform

Submittal to congressional committees.

rule or regulation promulgated under this Act shall be submitted on the same calendar day to the Committee on Energy and Natural Resources of the United States Senate and to the Committee on Interior and Insular Affairs of the United States House of Representatives, and no such uniform rule or regulation may take effect before the expiration of a period of ninety calendar days following the date of its submission to such Committees.

Rules and regulations.

(b) Each Federal land manager shall promulgate such rules and regulations, consistent with the uniform rules and regulations under subsection (a), as may be appropriate for the carrying out of his functions and authorities under this Act.

Public lands.

(c) Each Federal land manager shall establish a program to increase public awareness of the significance of the archaeological resources located on public lands and Indian lands and the need to protect such resources. Each such land manager shall submit an

Reports.

annual report to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate regarding the actions taken under such program.

Cooperation with Private Individuals

SEC. 11. The Secretary of the Interior shall take such action as may be necessary, consistent with the purposes of this Act, to foster and improve the communication, cooperation, and exchange of information between—

(1) private individuals having collections of archaeological resources and data which were obtained before the date of the enactment of this Act, and

(2) Federal authorities responsible for the protection of archaeological resources on the public lands and Indian lands and professional archaeologists and associations of professional archaeologists.

In carrying out this section, the Secretary shall, to the extent practicable and consistent with the provisions of this Act, make efforts to expand the archaeological data base for the archaeological resources of the United States through increased cooperation between private individuals referred to in paragraph (1) and professional archaeologists and archaeological organizations.

Savings Provisions

SEC. 12. (a) Nothing in this Act shall be construed to repeal, modify, or impose additional restrictions on the activities permitted under existing laws and authorities relating to mining, mineral leasing, reclamation, and other multiple uses of the public lands.

(b) Nothing in this Act applies to, or requires a permit for, the collection for private purposes of any rock, coin, bullet, or mineral which is not an archaeological resource, as determined under uniform regulations promulgated under section 3(1).

(c) Nothing in this Act shall be construed to affect any land other than public land or Indian land or to affect the lawful recovery, collection, or sale of archaeological resources from land other than public land or Indian land.

Report

SEC. 13. As part of the annual report required to be submitted to the specified committees of the Congress pursuant to section 5(c) of the Act of June 27, 1960 (74 Stat. 220; 16 U.S.C. 469–469a), the Secretary of the Interior shall comprehensively report as a separate component on the activities carried out under the provisions of this Act, and he shall make such recommendations as he deems appropriate as to changes or improvements needed in the provisions of this Act. Such report shall include a brief summary of the actions undertaken by the Secretary under section 11 of this Act, relating to cooperation with private individuals.

SEC. 14. The Secretaries of the Interior, Agriculture, and Defense and the Chairman of the Board of the Tennessee Valley Authority shall—

(a) develop plans for surveying lands under their control to determine the nature and extent of archeological resources on those lands;

(b) prepare a schedule for surveying lands that are likely to contain the most scientifically valuable archeological resources; and

(c) develop documents for the reporting of suspected violations of this Act and establish when and how those documents are to be completed by officers, employees, and agents of their respective agencies.

Abandoned Shipwreck Act of 1987[8]

AN ACT To establish the title of States in certain abandoned shipwrecks, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Abandoned Shipwreck Act of 1987

SEC. 1. SHORT TITLE.

This Act may be cited as the "Abandoned Shipwreck Act of 1987".

SEC. 2. FINDINGS.

The Congress finds that—

(a) States have the responsibility for management of a broad range of living and nonliving resources in State waters and submerged lands; and

(b) included in the range of resources are certain abandoned shipwrecks, which have been deserted and to which the owner has relinquished ownership rights with no retention.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(a) the term "embedded" means firmly affixed in the submerged lands or in coralline formations such that the use of tools of excavation is required in order to move the bottom sediments to gain access to the shipwreck, its cargo, and any part thereof;

(b) the term "National Register" means the National Register of Historic Places maintained by the Secretary of the Interior under section 101 of the National Historic Preservation Act (16 U.S.C. 470a);

(c) the terms "public lands", "Indian lands", and "Indian tribe" have the same meaning given the terms in the Archaeological Resource Protection Act of 1979 (16 U.S.C. 470aa–470ll);

(d) the term "shipwreck" means a vessel or wreck, its cargo, and other contents;

(e) the term "State" means a State of the United States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands; and

(f) the term "submerged lands" means the lands—

(1) that are "lands beneath navigable waters," as defined in section 2 of the Submerged Lands Act (43 U.S.C. 1301);

(2) of Puerto Rico, as described in section 8 of the Act of March 2, 1917, as amended (48 U.S.C. 749);

(3) of Guam, the Virgin Islands and American Samoa, as described in section 1 of Public Law 93–435 (48 U.S.C. 1705); and

(4) of the Commonwealth of the Northern Mariana Islands, as described in section 801 of Public Law 94–241 (48 U.S.C. 1681).

[8] The Abandoned Shipwreck Act of 1987 (43 U.S.C. 2101 *et seq.*), as set forth herein, consists of Public Law 100-298 (April 28, 1988).

Cultural programs
Historic preservation
Environmental protection

SEC. 4. RIGHTS OF ACCESS.

(a) ACCESS RIGHTS.—In order to—

(1) clarify that State waters and shipwrecks offer recreational and educational opportunities to sport divers and other interested groups, as well as irreplaceable State resources for tourism, biological sanctuaries, and historical research; and

(2) provide that reasonable access by the public to such abandoned shipwrecks be permitted by the State holding title to such shipwrecks pursuant to section 6 of this Act.

it is the declared policy of the Congress that States carry out their responsibilities under this Act to develop appropriate and consistent policies so as to—

(A) protect natural resources and habitat areas;

(B) guarantee recreational exploration of shipwreck sites; and

(C) allow for appropriate public and private sector recovery of shipwrecks consistent with the protection of historical values and environmental integrity of the shipwrecks and the sites.

Grants

(b) PARKS AND PROTECTED AREAS.—In managing the resources subject to the provisions of this Act, States are encouraged to create underwater parks or areas to provide additional protection for such resources. Funds available to States from grants from the Historic Preservation Fund shall be available, in accordance with the provisions of title I of the National Historic Preservation Act, for the study, interpretation, protection, and preservation of historic shipwrecks and properties.

SEC. 5. PREPARATION OF GUIDELINES.

National parks, monuments, etc.
Federal Register, publication

(a) In order to encourage the development of underwater parks and the administrative cooperation necessary for the comprehensive management of underwater resources related to historic shipwrecks, the Secretary of the Interior, acting through the Director of the National Park Service, shall within nine months after the date of enactment of this Act prepare and publish guidelines in the Federal Register which shall seek to:

(1) maximize the enhancement of cultural resources;

(2) foster a partnership among sport divers, fishermen, archeologists, salvors, and other interests to manage shipwreck resources of the States and the United States;

(3) facilitate access and utilization by recreational interests;

(4) recognize the interests of individuals and groups engaged in shipwreck discovery and salvage.

(b) Such guidelines shall be developed after consultation with appropriate public and private sector interests (including the Secretary of Commerce, the Advisory Council on Historic Preservation, sport divers, State Historic Preservation Officers, professional dive operators, salvors, archeologists, historic preservationists, and fishermen).

(c) Such guidelines shall be available to assist States and the appropriate Federal agencies in developing legislation and regulations to carry out their responsibilities under this Act.

SEC. 6. RIGHTS OF OWNERSHIP.

(a) UNITED STATES TITLE.—The United States asserts title to any abandoned shipwreck that is—

(1) embedded in submerged lands of a State;

(2) embedded in coralline formations protected by a State on submerged lands of a State; or

(3) on submerged lands of a State and is included in or determined eligible for inclusion in the National Register.

Public information
Historic preservation

(b) The public shall be given adequate notice of the location of any shipwreck to which title is asserted under this section. The Secretary of the Interior, after consultation with the appropriate State Historic Preservation Officer, shall make a written determination that an abandoned shipwreck meets the criteria for eligibility for inclusion in the National Register of Historic Places under clause (a)(3).

(c) TRANSFER OF TITLE TO STATES.—The title of the United States to any abandoned shipwreck asserted under subsection (a) of this section is transferred to the State in or on whose submerged lands the shipwreck is located.

Gifts and property
Indians

(d) EXCEPTION.—Any abandoned shipwreck in or on the public lands of the United States is the property of the United States Government. Any abandoned shipwreck in or on any Indian lands is the property of the Indian tribe owning such lands.

(e) RESERVATION OF RIGHTS.—This section does not affect any right reserved by the United States or by any State (including any right reserved with respect to Indian lands) under—

(1) section 3, 5, or 6 of the Submerged Lands Act (43 U.S.C. 1311, 1313, and 1314); or

(2) section 19 or 20 of the Act of March 3, 1899 (33 U.S.C. 414 and 415).

SEC. 7. RELATIONSHIP TO OTHER LAWS.

(a) LAW OF SALVAGE AND THE LAW OF FINDS.—The law of salvage and the law of finds shall not apply to abandoned shipwrecks to which section 6 of this Act applies.

(b) LAWS OF THE UNITED STATES.—This Act shall not change the laws of the United States relating to shipwrecks, other than those to which this Act applies.

(c) EFFECTIVE DATE.—This Act shall not affect any legal proceeding brought prior to the date of enactment of this Act.

Laws Governing Federal Preservation Tax Incentives

Since 1976 the Internal Revenue Code has contained incentives to stimulate investment in income-producing historic buildings. Currently the Internal Revenue Code provides for a 20% investment tax credit for the substantial rehabilitation of historic buildings for depreciable uses such as for commercial, industrial, or rental residential purposes, and a 10% tax credit for the substantial rehabilitation for nonresidential but depreciable purposes of buildings built before 1936. There is no investment tax credit for owner-occupied residences.The preservation tax incentives are available for any qualified project that the Secretary of the Interior designates a *certified rehabilitation* of a *certified historic structure*. Certification requests are made through the appropriate State Historic Preservation Office to the National Park Service; to qualify for the tax incentives a property owner must have certification of both the historic structure and the completed rehabilitation.

The Internal Revenue Code also permits income and estate tax deductions for charitable contributions of partial interests in historic property. Generally, the donation of a qualified real property interest to preserve a *historically important land area* or a *certified historic structure* meets the test of a charitable contribution for conservation purposes. For purposes of the charitable contribution provisions only, *a certified historic structure* need not be depreciable to qualify, may be a structure other than a building, and may also be a remnant of a building, such as a facade, if that is all that remains, and may include the land area on which it is located.

The Internal Revenue Service is responsible for all procedures, legal determinations, and rules and regulations governing the tax consequences of the historic preservation provisions of the Internal Revenue Code that follow.

Section 48(g) of the Internal Revenue Code of 1986[9] (Certified Rehabilitations)

Sec. 48(g) Special rules for qualified rehabilitated buildings. For purposes of this subpart

Qualified Rehabilitated Building

(1) Qualified Rehabilitated Building defined.

(A) In General. The term "qualified rehabilitated building" means any building (and its structural components)

(i) which has been substantially rehabilitated,

(ii) which was placed in service before the beginning of the rehabilitation, and

No physical external wall test for certified historic structure

(iii) in the case of any building other than a certified historic structure, in the rehabilitation process

(I) 50 percent or more of the existing external walls of such building are retained in place as external walls,

(II) 75 percent or more of the existing external walls are retained in place as internal or external walls, and

(III) 75 percent or more of the existing internal structural framework of such building is retained in place.

(B) Building Must be First Placed in Service Before 1936. In the case of a building other than a certified historic structure, a building shall not be a qualified rehabilitated building unless the building was first placed in service before 1936.

(C) Substantially Rehabilitated Defined.

Substantial rehabilitation test

(i) In General. For purposes of subparagraph (A)(i), a building shall be treated as having been substantially rehabilitated only if the qualified rehabilitation expenditures during the 24-month period selected by the taxpayer (at the time and in the manner prescribed by regulations) and ending with or within the taxable year exceed the greater of

(I) the adjusted basis of such building (and its structural components), or

(II) $5,000.

The adjusted basis of the building (and its structural components) shall be determined as of the beginning of the 1st day of such 24-month period, or of the holding period of the building, whichever is later. For purposes of the preceding sentence, the determination of the beginning of the holding period shall be made without regard to any reconstruction by the taxpayer in connection with the rehabilitation.

Phased rehabilitations

(ii) Special Rule for Phased Rehabilitation. In the case of any rehabilitation which may reasonably be expected to be completed in phases set forth in architectural plans and specifications completed before the rehabilitation begins, clause (i) shall be applied by substituting "60-month" for "24-month period."

[9] This title is not an official short title but is merely a popular name for the convenience of the reader; Section 48(g) has no official short title. Section 48(g) of the Internal Revenue Code of 1986 (90 Stat. 1519, as amended by 100 Stat. 2085), as set forth herein, is codified as 26 U.S.C. 48(g).

(iii) Lessees. The Secretary shall prescribe by regulation rules for applying this provision to lessees.

(D) Reconstruction. Rehabilitation includes reconstruction.

Qualified rehabilitation expenditures

(2) Qualified Rehabilitation Expenditure Defined. For purposes of this section

(A) In General. The term "qualified rehabilitation expenditure" means any amount properly chargeable to capital account

(i) for property for which depreciation is allowable under section 168 and which is

(I) nonresidential real property,

(II) residential rental property,

(III) real property which has a class life of more than 12.5 years, or

(IV) an addition or improvement to property or housing described in subclause (I), (II), or (III) and

(ii) in connection with the rehabilitation of a qualified rehabilitated building.

(B) Certain Expenditures Not included. The term "qualified rehabilitation expenditure" does not include

Straight-line depreciation

(i) Straight Line Depreciation Must Be Used. Any expenditure with respect to which the taxpayer does not use the straight line method over a recovery period determined under subsection (c) or (g) of section 168. The preceding sentence shall not apply to any expenditure to the extent the alternative depreciation system of section 168(g) applies to such expenditure by reason of subparagraph (B) or (C) of section 168(g)(1).

(ii) Cost of Acquisition. The cost of acquiring any building or interest therein.

(iii) Enlargements. Any expenditure attributable to the enlargement of an existing building.

Certified historic structure eligible only for historic tax credit

(iv) Certified Historic Structure, Etc. Any expenditure attributable to the rehabilitation of a certified historic structure or a building in a registered historic district, unless the rehabilitation is a certified rehabilitation (within the meaning of subparagraph (C)). The preceding sentence shall not apply to a building in a registered historic district if

(I) such a building was not a certified historic structure,

(II) the Secretary of the Interior certified to the Secretary that such building is not of historic significance to the district, and

(III) if the certification referred to in subclause (II) occurs after the beginning of the rehabilitation of such building, the taxpayer certifies to the Secretary that, at the beginning of such rehabilitation, he in good faith was not aware of the requirements of subclause (II).

Tax-exempt use property

(v) Tax-Exempt Use Property

(I) In General. Any expenditure in connection with the rehabilitation of a building which is allocable to that portion of such building which is (or may reasonably be expected to be) tax-exempt use property (within the meaning of section 168(h)).

(II) Clause Not to Apply for Purposes of Paragraph (1)(C). This clause shall not apply for purposes of determining under paragraph (1)(C) whether a building has been substantially rehabilitated.

(vi) Expenditures of Lessee. Any expenditure of a lessee of a building if, on the date the rehabilitation is completed, the remaining term of the lease (determined without regard to renewal periods) is less than the recovery period determined under section 168(c).

Certified rehabilitation

(C) Certified Rehabilitation. For purposes of subparagraph (B), the term "certified rehabilitation" means any rehabilitation of a certified historic structure which the Secretary of the Interior has certified to the Secretary as being consistent with the historic character of such property or the district in which such property is located.

(D) Nonresidential Real Property; Residential Rental Property: Class Life. For purposes of subparagraph (A), the terms "nonresidential real property," "residential rental property," and "class life" have the respective meanings given such terms by section 168.

Certified historic structure

(3) Certified Historic Structure Defined. For purposes of this subsection

(A) In General. The term "certified historic structure" means any building (and its structural components) which

(i) is listed in the National Register, or

(ii) is located in a registered historic district and is certified by the Secretary of the Interior to the Secretary as being of historic significance to the district.

Registered historic district

(B) Registered Historic District. The term "registered historic district" means

(i) any district listed in the National Register, and

(ii) any district

(I) which is designated under a statute of the appropriate State or local government, if such statute is certified by the Secretary of the Interior to the Secretary as containing criteria which will substantially achieve the purpose of preserving and rehabilitating buildings of historic significance to the district, and

(II) which is certified by the Secretary of the Interior to the Secretary as meeting substantially all of the requirements for the listing of districts in the National Register.

(4) Property Treated as New Section 38 Property. Property which is treated as section 38 property by reason of subsection (a)(1)(E) shall be treated as new section 38 property.

Section 170(h) of the Internal Revenue Code of 1986[10] (Qualified Conservation Contributions)

Section 170(h) Qualified Conservation Contribution

(1) In General. For purposes of subsection (f)(3)(B)(iii), the term "qualified conservation contribution" means a contribution

(A) of a qualified real property interest,

(B) to a qualified organization,

(C) exclusively for conservation purposes.

Qualified real property interests

(2) Qualified Real Property Interest. For purposes of this subsection, the term "qualified real property interest" means any of the following interest in real property:

(A) the entire interest of the donor other than a qualified mineral interest,

(B) a remainder interest, and

(C) a restriction (granted in perpetuity) on the use which may be made of the real property.

(3) Qualified Organization. For purposes of paragraph (1), the term "qualified organization" means an organization which

(A) is described in clause (v) or (vi) of subsection (b)(1)(A), or

(B) is described in section 501(c)(3) and

(i) meets the requirements of section 509(a)(2), or

(ii) meets the requirements of section 509(a)(3) and is controlled by an organization described in subparagraph (A) or in clause (i) of this subparagraph.

Conservation purposes

(4) Conservation Purpose Defined.

(A) In general. For purposes of this subsection, the term "conservation purpose" means

(i) the preservation of land areas for outdoor recreation by, or the education of, the general public,

(ii) the protection of relatively natural habitat of fish, wildlife, or plants, or similar ecosystem,

(iii) the preservation of open space (including farmland and forest land) where such preservation is

(I) for the scenic enjoyment of the general public, or

(II) pursuant to a clearly delineated Federal, State, or local governmental conservation policy, and will yield a significant public benefit, or

(iv) the preservation of an historically important land area or a certified historic structure.

(B) Certified Historic Structure. For purposes of subparagraph (A)(iv), the term "certified historic structure" means any building, structure, or land area which

[10] This title is not an official short title but is merely a popular name for the convenience of the reader; Section 170(h) has no official short title. Section 170(h) of the Internal Revenue Code of 1986 (94 Stat. 3204), as set forth herein, is codified as 26 U.S.C. 170(h).

(i) is listed in the National Register, or

(ii) is located in a registered historic district (as defined in 48(g)(3)) and is certified by the Secretary of the Interior to the Secretary as being of historic significance to the district.

A building, structure, or land area satisfies the preceding sentence if it satisfies such sentence either at the time of the transfer or on the due date (including extensions) for filing the transferor's return under this chapter for the taxable year in which the transfer is made.

Conveyance in perpetuity

(5) Exclusively for Conservation Purposes. For purposes of this subsection

(A) Conservation Purpose Must Be Protected. A contribution shall not be treated as exclusively for conservation purposes unless the conservation purpose is protected in perpetuity.

(B) No Surface Mining Permitted. In the case of a contribution of any interest where there is a retention of a qualified mineral interest, subparagraph (A) shall not be treated as met if at any time there may be extraction or removal of minerals by any surface mining method.

(6) Qualified Mineral Interest. For purposes of this subsection, the term "qualified mineral interest" means

(A) subsurface oil, gas or other minerals, and

(B) the right to access to such minerals.

Other Major Federal Historic Preservation Laws

In addition to the basic authorities governing the historic preservation activities under the jurisdiction of the Secretary of the Interior, the National Environmental Policy Act of 1969 obligates Federal agencies to consider the environmental effects of their projects as part of the Federal planning process. Important historic and cultural aspects of our national heritage are explicitly included as elements of our national environment that merit preservation in accordance with the provisions of the National Environmental Policy Act. The Act also directs Federal agencies to consult with agencies having special expertise (National Park Service and the Advisory Council on Historic Preservation) as part of the environmental impact statement process.

In addition, there are a number of other laws which direct specific Federal agencies to consider historic preservation in conjunction with their own mandated programs. The most important of these involve the Department of Transportation, the General Services Administration, and the National Railroad Passenger Corporation (Amtrak). Both Amtrak and the General Services Administration are directed to give special consideration to the use of historic or architecturally significant properties. The Amtrak Improvement Act of 1974 authorizes the Federal railroad transportation agencies and the National Endowment for the Arts to provide both grants and technical assistance to public and private organizations and entities for the preservation and reuse of historic railroad stations by the "conversion of railroad passenger terminals into intermodal transportation terminals and civic and cultural activity centers." The Public Buildings Cooperative Use Act of 1976 authorizes the General Services Administration to "acquire and utilize space in suitable buildings of historical, architectural or cultural significance unless such space would not prove feasible and prudent."

One of the strongest Federal historic preservation protections is known as Section 4(f) of the Department of Transportation Act of 1966. Under this provision, the Department of Transportation is prohibited from using any historic sites (private or public) for Federal or Federally-assisted highway purposes unless (1) there is no prudent and feasible alternative to the use of such land, and (2) all possible planning to minimize harm is accomplished.

Finally, there are myriad federal housing and community development laws, primarily involving the Department of Housing and Urban Development and the various Federal credit institutions, which are too numerous to include in this publication. The programs authorized under these laws generally include: (1) Federal loan insurance or guarantees from conventional lending institutions; (2) Federal regulation of the credit and banking industry; (3) Federal grants for community development; (4) Federal assistance to local agencies for public housing; and (5) Federal subsidies to low-income families for housing. Information on these laws may be obtained from the Department of Housing and Urban Development.

Section 4(f) of the Department of Transportation Act of 1966[11]

Sec. 4(f). Maintenance and enhancement of natural beauty of land traversed by transportation lines.

It is hereby declared to be the national policy that special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, and historic sites. The Secretary of Transportation shall cooperate and consult with the Secretaries of the Interior, Housing and Urban Development, and Agriculture, and with the States in developing transportation plans and programs that include measures to maintain or enhance the natural beauty of the lands traversed. After August 23, 1968, the Secretary shall not approve any program or project which requires the use of any publicly owned land from a public park, recreation area, or wildlife and waterfowl refuge of national, State, or local significance as determined by the Federal, State, or local officials having jurisdiction thereof, or any land from an historic site of national, State, or local significance as determined by such officials unless (1) there is no feasible and prudent alternative to the use of such land, and (2) such program includes all possible planning to minimize harm to such park, recreational area, wildlife and waterfowl refuge, or historic site resulting from such use.

[11] This title is not an official short title but is merely a popular name for the convenience of the reader; Section 4(f) has no official short title. Section 4(f) (49 U.S.C. 1653(f)), as set forth herein, is contained in: Public Law 89-670 (October 15, 1966).

National Environmental Policy Act of 1969[12]

AN ACT to establish a national policy for the environment, to provide for the establishment of a Council on Environmental Quality, and for other purposes.

National Environmental Policy Act of 1969

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Environmental Policy Act of 1969."

PURPOSE

Purpose

Sec. 2. The purposes of this Act are: To declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the Nation; and to establish a Council on Environment Quality.

TITLE I

Declaration of National Environmental Policy

Policies and goals

Sec. 101(a) The Congress, recognizing the profound impact of man's activity on the interrelations of all components of the natural environment, particularly the profound influences of population growth, high-density urbanization, industrial expansion, resource exploitation, and new and expanding technological advances and recognizing further the critical importance of restoring and maintaining environmental quality to the overall welfare and development of man, declares that it is the continuing policy of the Federal Government, in cooperation with State and local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans.

(b) In order to carry out the policy set forth in this Act, it is the continuing responsibility of the Federal Government to use all practicable means, consistent with other essential considerations of national policy, to improve and coordinate Federal plans, functions, programs, and resources to the end that the Nation may

(1) fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;

(2) assure for all Americans safe, healthful, productive, and esthetically and culturally pleasing surroundings;

(3) attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;

Preservation of historic, cultural, and natural heritage

(4) preserve important historic, cultural, and natural aspects of our national heritage, and maintain, wherever possible, an environment which supports diversity and variety of individual choice;

[12] The National Environmental Policy Act of 1969, as amended (42 U.S.C. 4371 *et seq.*), portions as set forth herein, consists of Public Law 91-190 (January 1, 1970), and amendments thereto.

(5) achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and

(6) enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

(c) The Congress recognizes that each person should enjoy a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.

Administration

Sec. 102. The Congress authorizes and directs that, to the fullest extent possible: (1) the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies set forth in this Act, and (2) all agencies of the Federal Government shall

(A) utilize a systemic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking which may have an impact on man's environment;

(B) identify and develop methods and procedures in consultation with the Council on Environmental Quality established by title II of this Act, which will insure that presently unquantified environmental amenities and values may be given appropriate consideration in decisionmaking along with economic and technical considerations;

Environmental impact statements

(C) include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on

(i) the environment impact of the proposed action,

(ii) any adverse environmental effects which cannot be avoided should the proposal be implemented,

(iii) alternatives to the proposed action,

(iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and,

(v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

Consultation with agencies having special expertise

Prior to making any detailed statement, the responsible Federal official shall consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate Federal, State, and local agencies, which are authorized to develop and enforce environmental standards, shall be made available to the President, the Council on Environmental Quality and to the public as provided in section 552 of title 5, United States Code, and shall accompany the proposal through the existing agency review process;

Amtrak Improvement Act of 1974[13]

Financial, technical, and advisory assistance

(i)(1) The Secretary shall provide financial, technical, and advisory assistance in accordance with this subsection for the purpose of (A) promoting on a feasibility demonstration basis the conversion of not less than three railroad passenger terminals into intermodal transportation terminals; (B) preserving railroad passenger terminals that have a reasonable likelihood of being converted or otherwise maintained pending the formulation of plans for reuse; and (C) stimulating State and local governments, local and regional transportation authorities, common carriers, philanthropic organizations, and other responsible persons to develop plans for the conversion of railroad passenger terminals into intermodal transportation terminals and civic and cultural activity centers.

Criteria for assistance

(2) Financial assistance for the purpose set forth in paragraph (1)(A) of this subsection shall be granted in accordance with the following criteria: (A) the railroad terminal can be converted to accommodate such other modes of transportation as the Secretary deems appropriate, including motorbus transportation, mass transit (rail or rubber tire), and airline ticket offices and passenger terminal providing direct transportation to area airports; (B) the railroad passenger terminal is listed on the National Register of Historic Places maintained by the Secretary of the Interior; (C) the architectural integrity of the railroad passenger terminal will be preserved and such judgment is concurred in by consultants recommended by the Chairman of the National Endowment of the Arts and the Advisory Council on Historic Preservation and retained for this purpose by the Secretary; (D) to the extent practicable, the use of station facilities for transportation purposes may be combined with use for other civic and cultural activities, especially when such use is recommended by the Advisory Council on Historic Preservation or the Chairman of the National Endowment for the Arts, or the consultants retained by the Secretary upon their recommendation; and (E) the railroad passenger terminal and the conversion project meet such other criteria as the Secretary shall develop and promulgate in consultation with the Chairman of the National Endowment of the Arts and the Advisory Council on Historic Preservation. The Secretary shall make grants not later than July 1, 1976. The amount of the Federal share of any grant under this paragraph shall not exceed 60 per centum of the total cost of conversion of a railroad passenger terminal into an intermodal transportation terminal.

(3) Financial assistance for the purpose set forth in paragraph (1)(B) of this subsection may be granted in accordance with regulations, to any responsible person (including a governmental entity) who is empowered by applicable law, qualified, prepared, and committed, on an interim basis pending the formulation of plans for reuse, to maintain (and prevent the demolition, dismantling, or further deterioration of) a railroad passenger terminal: *Provided*, That (A) such terminal has, in the opinion of the Secretary, a reasonable likelihood of being converted to or conditioned for reuse as an intermodal transportation terminal, a civic or cultural activities center, or both; and (B) planning activity aimed at conversion or reuse has commenced and is proceeding in a competent manner. Funds appropriated for the purpose of this paragraph and

[13] The Amtrak Improvement Act of 1974 (45 U.S.C. 501), portions as set forth herein, consists of Public Law 93-496 (October 28, 1974).

paragraph (1)(B) of this subsection shall be expended in the manner most likely to maximize the preservation of railroad passenger terminals capable reasonably of conversion to intermodal transportation terminals or which are listed in the National Register of Historic Places maintained by the Secretary of the Interior or which are recommended (on the basis of architectural integrity and quality) by the Chairman of the National Endowment for the Arts or the Advisory Council on Historic Preservation. The amount of the Federal share of any grant under this paragraph shall not exceed 60 per centum of the total cost of such interim maintenance for a period not to exceed five years.

(4) Financial assistance for the purpose set forth in paragraph (1)(C) of this subsection may be granted, in accordance with regulations, to a qualified person (including a governmental entity) who is prepared to develop practicable plans meeting the zoning, land use, and other requirements of the applicable State and local jurisdictions in which the rail passenger terminal is located as well as requirements under this subsection; who shall incorporate into the designs and plans proposed for the conversion of such terminal into an intermodal transportation terminal, a civic or cultural center, or both, features which reasonably appear likely to attract private investors willing to undertake the implementation of such planned conversion and its subsequent maintenance and operation; and who shall complete the designs and plans for such conversion within two years following the approval of the application for Federal financial assistance under this subsection. In making grants under this paragraph, the Secretary shall give preferential consideration to applicants whose completed designs and plans will be implemented and effectuated within three years after the date of completion. Funds appropriated for the purpose of this paragraph and paragraph (1)(C) of this subsection shall be expended in the manner most likely to maximize the conversion and continued public use of railroad passenger terminals which are listed in the National Register of Historic Places maintained by the Secretary of the Interior or which are recommended (on the basis of architectural integrity and quality) by the Advisory Council on Historic Preservation or the Chairman of the National Endowment for the Arts. The amount of the Federal share of any grant under this paragraph shall not exceed 60 per centum of the total cost of the project or undertaking for which the financial assistance is provided.

Regulations

(5) Within ninety days after the date of enactment of this subsection, the Secretary shall issue, and may from time to time amend, regulations with respect to financial assistance under this subsection and procedures for the award of such assistance. Each application for assistance under this subsection shall be made in writing in such form and with such content and other submissions as the Secretary shall require.

Preservation of historic stations

(6) The National Railroad Passenger Corporation shall give preference to using station facilities that would preserve buildings of historical and architectural significance.

Public Buildings Cooperative Use Act of 1976[14]

AN ACT To amend the Public Buildings Act of 1959 in order to preserve buildings of historical or architectural significance through their use for Federal public building purposes, and to amend the Act of August 12, 1968, relating to the accessibility of certain buildings to the physically handicapped.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

SEC. 101. This title may be cited as the "Public Buildings Cooperative Use Act of 1976".

Utilization of historically and architecturally significant buildings

SEC. 102. (a) In order to carry out his duties under this title and under any other authority with respect to constructing, operating, maintaining, altering, and otherwise managing or acquiring space necessary for the accommodation of Federal agencies and to accomplish the purposes of this title, the Administrator shall—

(1) acquire and utilize space in suitable buildings of historic, architectural, or cultural significance, unless use of such space would not prove feasible and prudent compared with available alternatives;

(2) encourage the location of commercial, cultural, educational, and recreational facilities and activities within public buildings;

(3) provide and maintain space, facilities, and activities, to the extent practicable, which encourage public access to and stimulate public pedestrian traffic around, into, and through public buildings, permitting cooperative improvements to and uses of the area between the building and the street, so that such activities complement and supplement commercial, cultural, educational, and recreational resources in the neighborhood of public buildings; and

(4) encourage the public use of public buildings for cultural, educational, and recreational activities.

[14] The Public Buildings Cooperative Use Act of 1976 (40 U.S.C. 175), portions as set forth herein, consists of Public Law 94-541 (October 18, 1976).

Appendix

Federal Regulations

Regulations Governing National Historic Preservation Programs

36 CFR Part 60	National Register of Historic Places
36 CFR Part 61	Procedures for approved State and local government historic preservation programs
36 CFR Part 63	Determinations of eligibility for inclusion in the National Register of Historic Places
36 CFR Part 68	The Secretary of the Interior's Standards for Historic Preservation Projects
36 CFR Part 73	World Heritage Convention
36 CFR Part 78	Waiver of Federal agency responsibilities under section 110 of the National Historic Preservation Act
36 CFR Part 800	Protection of Historic Properties (Advisory Council on Historic Preservation)

Regulations Governing National Historic Landmarks

36 CFR Part 65	National Historic Landmarks Program

Regulations Governing the Federal Archeology Program

43 CFR Part 3	Preservation of American Antiquities
43 CFR Part 7	Protection of Archaeological Resources
36 CFR Part 79	Curation of Federally Owned and Administered Archeological Collections

Regulations Governing Federal Preservation Tax Incentives

36 CFR Part 67	Historic Preservation Certifications
26 CFR Parts 1 and 602	Income Tax: Investment Tax Credit for Qualified Rehabilitation Expenditures (Internal Revenue Service)
26 CFR Parts 1, 20, 25, and 602	Income Tax: Qualified Conservation Contributions (Internal Revenue Service)

Regulations Governing Other Major Federal Historic Preservation Programs

23 CFR Part 771	Environmental Impact and Related Procedures (Department of Transportation, Federal Highway Administration)
40 CFR Parts 1500–1517	Regulations of the Council on Environmental Quality
41 CFR Part 101–17	Assignment and Utilization of Space (General Services Administration, Public Buildings Service)
41 CFR Part 101–20	Management of Buildings and Grounds (General Services Administration, Public Buildings Service)

Historic Preservation Guidelines

Archeology and Historic Preservation: Secretary of the Interior's Standards and Guidelines
Guidelines for Federal Agency Responsibilities, Under Section 110 of the National Historic Preservation Act
Abandoned Shipwreck Guidelines